

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX CC

J. Scott Wiedmann

July 29, 2022

1 UNITED STATES DISTRICT COURT
 2 FOR THE
 3 WESTERN DISTRICT OF TEXAS

4 LA UNION DEL PUEBLO ENTERO, et. al.)
 Plaintiff,)
 5 v.) Civil Action No. 5:21-cv-00844-XR
 GREGORY W. ABBOTT, et al.)
 6 Defendant.)
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10 Deposition of J. SCOTT W, WIEDMANN, taken pursuant to Subpoena to
 11 testify at Deposition, was held at the U.S. Department of Justice, 150
 12 M Street NE, 8th Floor, Washington, DC 20002, commencing July 29, 2022
 13 at 9:48 A.M., on the above date, before JEANINN ALEXIS, a Stenographer
 14 and Notary Public in and for the District of Columbia.

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| <p style="text-align: right;">Page 46</p> <p>1 the last four digits.</p> <p>2 Is that correct?</p> <p>3 A If they have such number, yes.</p> <p>4 Q Is there anything about paragraph 6 that you</p> <p>5 believe is now inaccurate as compared to when you</p> <p>6 wrote this particular draft?</p> <p>7 A I believe paragraph 6 is accurate.</p> <p>8 Q Are there any changes you would make to</p> <p>9 paragraph 6 since the time you wrote this initial</p> <p>10 draft?</p> <p>11 A I don't believe so.</p> <p>12 Q You can put Exhibit 2 to the side, but I</p> <p>13 wouldn't put it too far.</p> <p>14 (Wiedmann Deposition Exhibit 3 marked for</p> <p>15 identification.)</p> <p>16 BY MS. HUNKER:</p> <p>17 Q Do you have Exhibit 3 in front of you?</p> <p>18 A Yes.</p> <p>19 Q And do you recognize this document?</p> <p>20 A Yes, I do.</p> <p>21 Q This is a voter registration absentee ballot</p> <p>22 request specifically known as a Federal Post Card</p> | <p style="text-align: right;">Page 48</p> <p>1 Q And do you know what happens if the voter</p> <p>2 does not check one of these boxes?</p> <p>3 A So these boxes would serve a couple</p> <p>4 purposes. One is as stated in the red box at the top,</p> <p>5 the form is intended for active duty military and</p> <p>6 their families who are absent from their voting</p> <p>7 jurisdiction or US citizens outside the United States.</p> <p>8 So if an individual submitting this form did</p> <p>9 not check one of these five boxes, it would be</p> <p>10 difficult for the local election office to determine</p> <p>11 if this person is actually an individual who is</p> <p>12 covered by Uniformed Overseas Citizens Absentee Voting</p> <p>13 Act.</p> <p>14 Q So -- oh, sorry.</p> <p>15 A That's the primary reason for those boxes.</p> <p>16 Q So if an individual does not check one of</p> <p>17 these boxes, they would have their application</p> <p>18 rejected.</p> <p>19 Is that correct?</p> <p>20 A I would say it depends on the state and what</p> <p>21 their procedures are as to what to do with a Federal</p> <p>22 Post Card Application. They may not reject it</p> |
| <p style="text-align: right;">Page 47</p> <p>1 Application; is that correct?</p> <p>2 A It appears to be, yes.</p> <p>3 Q I will represent to you that I got this</p> <p>4 particular Federal Post Card Application from the</p> <p>5 Federal Voting Assistance Program's website.</p> <p>6 Do you have any reason to doubt on that?</p> <p>7 A I do not. I haven't read every word but I</p> <p>8 have no reason to doubt it.</p> <p>9 Q And so there are a bunch of different</p> <p>10 fields. Let's look at Section 1 first. It says, Who</p> <p>11 are you pick one. And then it has four check boxes</p> <p>12 which reads, I am on active duty in the Uniformed</p> <p>13 Services or Merchant Marines or I am an eligible</p> <p>14 spouse or dependent. Two, I am a US citizen living</p> <p>15 outside the country and I intend to return. Three, I</p> <p>16 am a US citizen living outside the country and my</p> <p>17 intent to return is uncertain. And, Four, I am a US</p> <p>18 citizen living outside the country. I have never</p> <p>19 lived in the United States.</p> <p>20 Did I read those correctly?</p> <p>21 A You did. I would characterize them as five</p> <p>22 options, but you did read them correctly.</p> | <p style="text-align: right;">Page 49</p> <p>1 outright. They may put it on hold and contact the</p> <p>2 voter or they could reject it outright and send a</p> <p>3 notification to the voter. It depends on the state's</p> <p>4 procedures.</p> <p>5 Q But if -- a voter does not fill out one of</p> <p>6 these five boxes would not have their FPCA accepted.</p> <p>7 Is that right?</p> <p>8 A I can't say what a state would accept or not</p> <p>9 accept.</p> <p>10 Q But would you agree with me that certain</p> <p>11 states would require the voter either resubmit the</p> <p>12 form or provide additional information before</p> <p>13 accepting the FPCA in the event the voter did not fill</p> <p>14 out one of these five boxes?</p> <p>15 A I would agree with that statement, yes.</p> <p>16 Q And also in Section 1, we have fields for</p> <p>17 last name, first name, and middle name as well as</p> <p>18 previous names, birth date; is that correct?</p> <p>19 A Yes.</p> <p>20 Q And also in Section 1, there's a field for</p> <p>21 social security numbers; is that right?</p> <p>22 A Yes.</p> |

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| <p style="text-align: right;">Page 50</p> <p>1 Q And there is also a field for driver's 2 license or state ID numbers; is that right? 3 A Yes. 4 Q And so the fields with social security 5 numbers and driver's license or state ID number are on 6 the Federal Post Card Application? 7 Is that right? 8 A Yes, they are. 9 Q And you had stated before that the Federal 10 Post Card Application did not change as a result of 11 Senate Bill 1; correct? 12 A That's correct. 13 Q So the social security number field and 14 driver's license field existed on the Federal Post 15 Card Application independent of Senate Bill 1; is that 16 correct? 17 A That's correct. 18 Q Now, you had mentioned that you do updates 19 for the Federal Post Card Application every two years. 20 Was the social security number field and the driver's 21 license number field added in 2021 or did it 22 pre-exist?</p> | <p style="text-align: right;">Page 52</p> <p>1 out. 2 Q So you don't know what percentage of voters 3 would fill in a field for social security numbers or 4 driver's licenses; is that right? 5 A That is correct. I do not know. 6 Q So you mentioned that these fields have been 7 on the form for quite some time. Do you know why they 8 were put on the form? 9 A So the form is to facilitate communications 10 between the voter and their election office so the 11 voter can provide information necessary so they can be 12 registered to vote and to have a ballot sent to them. 13 So if a state -- if states require these, that's why 14 they will be on there. 15 Q And so the field on the Federal Post Card 16 Application for social security number and driver's 17 license number is to facilitate registration and 18 absentee ballot requests with the state; is that 19 right? 20 A As part of the form as a whole, yes. 21 Q And do you know what occurs if an individual 22 does not provide their birth date on the Federal Post</p> |
| <p style="text-align: right;">Page 51</p> <p>1 A It pre-existed, to the best of my 2 recollection. 3 Q So the social security number field and the 4 driver's license number field pre-existed on the 5 Federal Post Card Application prior to 2021; is that 6 right? 7 A Yes. 8 Q Do you know when they were added to the 9 form? 10 A I cannot recall them not being on the form. 11 Q And you've been working with the Federal 12 Voting Assistance Program since 1993; is that right? 13 A Yes. 14 Q And since 1993, you do not recall a Federal 15 Post Card Application that did not have a social 16 security number or a driver's license field; is that 17 right? 18 A That is correct. 19 Q In your experience, do applicants typically 20 fill in all the fields? 21 A I do not receive these forms so I cannot 22 comment on what fields are filled out or not filled</p> | <p style="text-align: right;">Page 53</p> <p>1 Card Application? 2 A I believe it will be something similar to 3 the other check boxes in that the state would, based 4 on the state rules, regulations, procedures, determine 5 whether or not the form could be accepted and/or they 6 would have to communicate with the voter for 7 subsequent information prior to accepting the form. 8 Q So you would agree with me that if an 9 overseas or military voter did not provide a birth 10 date on a Federal Post Card Application, that some 11 states would require the voter to either resubmit the 12 form or, in some way, communicate the information to 13 the state; is that right, before accepting the 14 application? 15 A My understanding is that it is a requirement 16 by the states, yes. 17 Q And have you looked into how states require 18 a military or overseas voter to cure these types of 19 defects such as not providing a birth date on the 20 Federal Post Card Application? 21 A We do not have -- we do not collect and/or 22 distribute information on the cure process for any</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 A My understanding is that upon receiving this</p> <p>2 and it being approved, meeting the states' or</p> <p>3 localities' requirements for voter registration, than,</p> <p>4 yes, all subsequent elections for federal offices that</p> <p>5 occur during that year, the absentee ballot will be</p> <p>6 sent to the voter.</p> <p>7 Q So barring a mistake on the form, the voter</p> <p>8 would only have to fill this out one time each</p> <p>9 calendar year; is that right?</p> <p>10 A As long as that individual's situation has</p> <p>11 not changed.</p> <p>12 Q That's a good clarification. Thank you.</p> <p>13 If we can go back to the first page. You</p> <p>14 see Section 2 where it says, What is your address in</p> <p>15 the US state or territory were you're registering to</p> <p>16 vote and requesting an absentee ballot.</p> <p>17 A Yes.</p> <p>18 Q Now, if a voter failed to fill out this</p> <p>19 particular section, you will agree with me that the</p> <p>20 state would require the voter to either resubmit their</p> <p>21 Federal Post Card Application or provide additional</p> <p>22 information before the application was accepted.</p> | <p style="text-align: right;">Page 68</p> <p>1 A Yes, it is one avenue. It is one back up</p> <p>2 that can be used, yes.</p> <p>3 Q Look where it says, You can vote wherever</p> <p>4 you are. This is how.</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q One, Fill out your voter information page</p> <p>8 completely and accurately. The first bullet point</p> <p>9 reads, Your US voting residence is used to determine</p> <p>10 where you are eligible to vote absentee. For military</p> <p>11 voters, it is usually the last address in your state</p> <p>12 of legal residence. For overseas citizens, it is</p> <p>13 usually the last place you lived before moving</p> <p>14 overseas. You do not need to have any current ties to</p> <p>15 this address. Do not write a post box in Section 2.</p> <p>16 Did I read this correctly?</p> <p>17 A Yes.</p> <p>18 Q And you agree with me that providing a</p> <p>19 voting residence address is required by many states</p> <p>20 for the Federal Write-In Ballot to be accepted?</p> <p>21 A I do not know to what extent states would</p> <p>22 verify all the information on this voter information</p> |
| <p style="text-align: right;">Page 67</p> <p>1 Is that correct?</p> <p>2 A This would be part of the information</p> <p>3 required by many states in order to correctly process</p> <p>4 the form, yes.</p> <p>5 Q We can put this document to the side.</p> <p>6 (Wiedmann Deposition Exhibit 4 marked for</p> <p>7 identification.)</p> <p>8 BY MS. HUNKER:</p> <p>9 Q This is Exhibit No. 4. Do you have the</p> <p>10 document in front of you?</p> <p>11 A Yes.</p> <p>12 Q And do you recognize this document?</p> <p>13 A It looks like it is a complete Federal</p> <p>14 Write-In Absentee Ballot form.</p> <p>15 Q And I will represent to you that I took this</p> <p>16 particular form from the website of the Federal Voting</p> <p>17 Assistance Program.</p> <p>18 Do you have any reason to doubt my</p> <p>19 characterization of this document?</p> <p>20 A I do not.</p> <p>21 Q And so this acts as the backup ballot for</p> <p>22 military and overseas voters; is that correct?</p> | <p style="text-align: right;">Page 69</p> <p>1 sheet that's provided.</p> <p>2 Q And you see in the second bullet point, it</p> <p>3 says, Most states allow you to provide a driver's</p> <p>4 license number or the last four digits of your social</p> <p>5 security number. New Mexico, Tennessee, and Virginia</p> <p>6 require a full social security number.</p> <p>7 Did I read that correctly?</p> <p>8 A Yes.</p> <p>9 Q And so for those states, mainly New Mexico,</p> <p>10 Tennessee, and Virginia, based on this document, a</p> <p>11 voter would have to put on there their driver's</p> <p>12 license number or their full social security number in</p> <p>13 order to accurately fill out and have their Federal</p> <p>14 Write-In Absentee Ballot accepted.</p> <p>15 Is that correct?</p> <p>16 A I'm not sure if that's correct because there</p> <p>17 are states as listed up above or that are not listed</p> <p>18 up above that will accept this form as both the</p> <p>19 registration form and the absentee ballot itself.</p> <p>20 So I can't say for sure whether or not those</p> <p>21 states would reject the ballot if the voter had</p> <p>22 already gone through the registration process</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 previously.</p> <p>2 Q Okay. Would you agree with me that some</p> <p>3 states require a driver's license number, state ID</p> <p>4 number, or social security number in order to complete</p> <p>5 the -- successfully complete the Federal Write-In</p> <p>6 Absentee Ballot?</p> <p>7 A Again, I'm not sure what states, what</p> <p>8 information on this form states would use to verify</p> <p>9 the voter's identification before accepting the voter</p> <p>10 ballot portion.</p> <p>11 Q And this document is prescribed in your</p> <p>12 office; correct?</p> <p>13 A That is correct.</p> <p>14 Q And that is true also from the Federal Post</p> <p>15 Card Application?</p> <p>16 A That is correct.</p> <p>17 Q And so if we turn to page 2, you will see</p> <p>18 that it has a bunch of fields where the voter has to</p> <p>19 fill out.</p> <p>20 Is that correct?</p> <p>21 A Yes.</p> <p>22 Q And like with the FPCA, Section 1 provides a</p> | <p style="text-align: right;">Page 72</p> <p>1 A I can't necessarily agree with that because</p> <p>2 I don't -- again, I don't know what states would</p> <p>3 require for solely affirming the voter's identity to</p> <p>4 accept the ballot versus in a state where this might</p> <p>5 be used for registration.</p> <p>6 Q So what about the states that don't use it</p> <p>7 as a voter registration form? For those states, would</p> <p>8 you agree with me that if a voter did not check one of</p> <p>9 these boxes, that the state or states would require</p> <p>10 the voter to either resubmit the Federal Write-In</p> <p>11 Absentee Ballot or, in some way, provide the</p> <p>12 additional information?</p> <p>13 A That may be the case. I would agree that</p> <p>14 may be the case.</p> <p>15 Q And if we look at Section 1, you will see a</p> <p>16 bunch of different fields like last name; first name;</p> <p>17 middle name; suffix; previous name, if applicable; and</p> <p>18 birth date.</p> <p>19 Is that correct?</p> <p>20 A Yes.</p> <p>21 Q And then we also have a field for social</p> <p>22 security number and driver's license or state ID</p> |
| <p style="text-align: right;">Page 71</p> <p>1 list of five check boxes that read, I am on active</p> <p>2 duty in Uniformed Services or Merchant Marine, I am an</p> <p>3 eligible spouse with dependent, I a US citizen living</p> <p>4 outside the country and intend to return, I am a US</p> <p>5 citizen living outside of the country and my intent to</p> <p>6 return is uncertain, I am a US citizen living outside</p> <p>7 the country. I have never lived inside the United</p> <p>8 States.</p> <p>9 Did I read those correctly?</p> <p>10 A Yes.</p> <p>11 Q And do you know what happens if a voter does</p> <p>12 not check one of these five boxes?</p> <p>13 A I am not 100 percent sure. It may depend on</p> <p>14 whether the voter is using this form for voter</p> <p>15 registration versus just as a way of affirming who</p> <p>16 they are upon reaching the ballot.</p> <p>17 Q Would you agree with me that in some states,</p> <p>18 if a voter did not check one of these five boxes, that</p> <p>19 the state would require the voter to either resubmit</p> <p>20 the write-in ballot or provide additional information</p> <p>21 before they would accept the Federal Write-In Absentee</p> <p>22 Ballot?</p> | <p style="text-align: right;">Page 73</p> <p>1 number; is that correct?</p> <p>2 A Yes.</p> <p>3 Q And I should specify these fields are</p> <p>4 separate, so social security is one field, driver's</p> <p>5 license or state ID is another field?</p> <p>6 A Yes.</p> <p>7 Q And you had mentioned that the Federal</p> <p>8 Voting Assistance Program did not make changes to the</p> <p>9 form, specifically the federal Write-In Absentee</p> <p>10 Ballot in response to Senate Bill 1; correct?</p> <p>11 A That's correct.</p> <p>12 Q And so the fields that have social security</p> <p>13 number and the field that has driver's license or</p> <p>14 state ID number, is this form independent of the</p> <p>15 requirements of Senate Bill 1; is that correct?</p> <p>16 A That's my understanding, yes.</p> <p>17 Q Were the fields for social security number</p> <p>18 and driver's license or state ID on this form prior to</p> <p>19 2021?</p> <p>20 A Yes.</p> <p>21 Q And is this also an example of you not</p> <p>22 remembering the Federal Write-In Absentee Ballot not</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 having a field for social security number and/or</p> <p>2 driver's license and state ID?</p> <p>3 A I don't recall whether it was or was not on</p> <p>4 there for my entire time there, but I don't recall</p> <p>5 that.</p> <p>6 Q Okay. To your recollection, did these</p> <p>7 fields exist prior to 2021?</p> <p>8 A Yes.</p> <p>9 Q To your recollection, do you know how long</p> <p>10 they would have been on this form?</p> <p>11 A I would say multiple election cycles. I</p> <p>12 don't remember exactly.</p> <p>13 Q So the fields for social security numbers</p> <p>14 and driver's license or state ID have been on the</p> <p>15 Federal Write-In Absentee Ballot for multiple election</p> <p>16 cycles; is that right?</p> <p>17 A Yes.</p> <p>18 Q And you don't know what percentage of voters</p> <p>19 provide either driver's license number or social</p> <p>20 security number when filling out this form, do you?</p> <p>21 A We do not.</p> <p>22 Q Do you know if voters typically fill in all</p> | <p style="text-align: right;">Page 76</p> <p>1 may tell them to check with the election official to</p> <p>2 see whether or not it's required.</p> <p>3 Q And if we look to Section 4, it says, What</p> <p>4 is your contact information. This is so election</p> <p>5 officials can reach you about your request.</p> <p>6 Did I read that correctly?</p> <p>7 A Yes.</p> <p>8 Q And there are four fields. The fields read:</p> <p>9 Email, alternate email, phone, fax.</p> <p>10 Did I read that correctly?</p> <p>11 A Yes.</p> <p>12 Q And this is in part so that election</p> <p>13 officials can get in contact with the voters; is that</p> <p>14 correct?</p> <p>15 A That would be one reason they would provide</p> <p>16 the information.</p> <p>17 Q And what are the other reasons?</p> <p>18 A If they are requesting using this as a</p> <p>19 registration form and providing the email so the voter</p> <p>20 or the state can either send them a ballot by email or</p> <p>21 through some sort of email with a link-type,</p> <p>22 online-type service.</p> |
| <p style="text-align: right;">Page 75</p> <p>1 the fields available?</p> <p>2 MS. YUN: Objection. Foundation.</p> <p>3 BY MS. HUNKER:</p> <p>4 Q You can answer.</p> <p>5 A I do not know how complete the voters submit</p> <p>6 -- complete the form before submission.</p> <p>7 Q Does the Federal Voting Assistance Program</p> <p>8 recommend to voters that they fill out all the fields</p> <p>9 on this form?</p> <p>10 A We recommend voters provide as much</p> <p>11 information as possible to ensure the election office</p> <p>12 has the information they need to process it and either</p> <p>13 register or have the ballot count.</p> <p>14 Q Do you recommend that -- when I say you, I</p> <p>15 mean the Federal Voting Assistance Program recommend</p> <p>16 that voters put down their social security number or</p> <p>17 their driver's license or state ID number?</p> <p>18 A Again, we would recommend that voters</p> <p>19 provide whatever information they feel is necessary to</p> <p>20 ensure that the state can process the form. If a</p> <p>21 voter has concern about providing those numbers</p> <p>22 because of security or whatever other reasons, then we</p> | <p style="text-align: right;">Page 77</p> <p>1 Q And do you recommend to voters that they put</p> <p>2 their email or phone number?</p> <p>3 A We do.</p> <p>4 Q And you wouldn't happen to know what</p> <p>5 percentage provide their phone or email?</p> <p>6 A I do not know.</p> <p>7 Q And then if we look to No. 6, it says, What</p> <p>8 additional information must you provide.</p> <p>9 Did I read that correctly?</p> <p>10 A Yes.</p> <p>11 Q And then there are a couple of sentences</p> <p>12 following. It reads, Alabama requires two witness</p> <p>13 signatures; Alaska, Virginia, and Wisconsin require</p> <p>14 one witness signature.</p> <p>15 Did I read that line correctly?</p> <p>16 A Yes.</p> <p>17 Q And so I take from this that Alabama</p> <p>18 requires two witnesses signatures in order for the</p> <p>19 absentee ballot to be counted.</p> <p>20 Is that correct?</p> <p>21 MS. YUN: Objection. Foundation.</p> <p>22 THE DEPONENT: In our coordination with the</p> |

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX DD

Transcript of the Testimony of
Lisa Wise

Date:

April 13, 2022

Case:

LA UNION DEL PUEBLO ENTERO et al. vs GREGORY W. ABBOTT

Lisa Wise

April 13, 2022

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF TEXAS
 3 SAN ANTONIO DIVISION

3 LA UNION DEL PUEBLO ENTERO)
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 11 ORAL AND VIDEOTAPED DEPOSITION OF
 LISA WISE
 12 APRIL 13, 2022
 Volume 1
 13 -----
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15 ORAL AND VIDEOTAPED DEPOSITION OF LISA
 16 WISE produced as a witness at the instance of Plaintiff,
 17 and duly sworn, was taken in the above-styled and
 18 numbered cause on the 13th day of April, 2022 from 10:02
 19 a.m. mountain time to 5:27 p.m. mountain time, before
 20 Nancy Newhouse, a Certified Shorthand Reporter in and for
 21 the State of Texas, reported by oral shorthand, located
 22 at the 500 East San Antonio, Room 503, El Paso, Texas
 23 79901, pursuant to the Federal Rules of Civil Procedure,
 24 and the provisions stated on the record or attached
 25 hereto.

Lisa Wise

April 13, 2022
Pages 138 to 141

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| <p style="text-align: right;">Page 138</p> <p>1 A. Correct.</p> <p>2 Q. (BY MR. WHITE) So apart from providing your</p> <p>3 driver's license number or your social security number,</p> <p>4 what other information is required on the form for</p> <p>5 application by ballot by mail?</p> <p>6 MS. SPECTOR: Objection, vague.</p> <p>7 A. Depending on the election there may be a party</p> <p>8 selection, if it's a primary; what qualifies you to vote</p> <p>9 by mail, so obviously your date of birth is required; if</p> <p>10 you're voting by mail because of disability, you need to</p> <p>11 mark that; if you're voting by mail because you're going</p> <p>12 to be out of the county during early voting on Election</p> <p>13 Day you mark that and then give us an address outside</p> <p>14 the county to mail the ballot, that's that on the</p> <p>15 qualifications.</p> <p>16 The other information is what elections</p> <p>17 you want. There is the annual option, which is, if you</p> <p>18 qualify, you must be 65 or over or have marked disabled</p> <p>19 on the application, and in that example we'll give you a</p> <p>20 ballot for every election that your jurisdiction is</p> <p>21 participating in, we'll send you one so you don't have</p> <p>22 to keep sending in the application. Or you can mark the</p> <p>23 -- this, in this one for example you could mark Democrat</p> <p>24 or Republican primary or any resulting runoff, the</p> <p>25 election selection.</p> | <p style="text-align: right;">Page 140</p> <p>1 A. Yes.</p> <p>2 Q. (BY MR. WHITE) And when did you start</p> <p>3 maintaining that information?</p> <p>4 MS. SPECTOR: Objection, calls for</p> <p>5 speculation.</p> <p>6 A. Yeah. I mean, well before I started.</p> <p>7 Q. (BY MR. WHITE) Do you remember what the</p> <p>8 requirement is to keep that information?</p> <p>9 MS. SPECTOR: Objection, vague, calls for</p> <p>10 legal conclusion.</p> <p>11 A. I'm sorry, I don't understand the question.</p> <p>12 Q. (BY MR. WHITE) Do you remember what law</p> <p>13 required you to gather that information when voters</p> <p>14 registered?</p> <p>15 MS. SPECTOR: Same objections.</p> <p>16 A. I -- I don't know the law offhand. I know</p> <p>17 that -- that right now that's required from the</p> <p>18 registration form, and that we do ask for that, but no,</p> <p>19 that was well before I lived here, probably even in the</p> <p>20 state of Texas.</p> <p>21 Q. (BY MR. WHITE) Does the identification</p> <p>22 number, whether it's the driver's license, a</p> <p>23 certificate, identification certificate or your social</p> <p>24 security number, does that end up in the public file</p> <p>25 that can be obtained on voters?</p> |
| <p style="text-align: right;">Page 139</p> <p>1 Q. (BY MR. WHITE) What information on the</p> <p>2 application for ballot by mail is used to identify the</p> <p>3 voter requesting the ballot, apart from the driver's</p> <p>4 license number or the partial social -- social security</p> <p>5 number?</p> <p>6 MS. SPECTOR: Objection, vague.</p> <p>7 A. It's generally the name, address and date of</p> <p>8 birth.</p> <p>9 Q. (BY MR. WHITE) And is the name of registered</p> <p>10 voters on that public file that you maintain?</p> <p>11 A. Yes.</p> <p>12 Q. And is the address on that public file?</p> <p>13 A. Yes.</p> <p>14 Q. And is the date of birth?</p> <p>15 A. We do not give date of birth out on the public</p> <p>16 file.</p> <p>17 Q. And now after -- strike that.</p> <p>18 Sin -- you maintain driver's license</p> <p>19 numbers and partial social security numbers in your</p> <p>20 voter registration file, is that correct?</p> <p>21 A. Yes.</p> <p>22 MS. SPECTOR: Objection --</p> <p>23 THE WITNESS: Sorry.</p> <p>24 MS. SPECTOR: -- vague.</p> <p>25 It's okay.</p> | <p style="text-align: right;">Page 141</p> <p>1 MS. SPECTOR: Objection, vague.</p> <p>2 A. It's in our system, but it's not run on the</p> <p>3 voter file for the publically-released information.</p> <p>4 Q. (BY MR. WHITE) So if I wrote in and asked for</p> <p>5 all the voters registered in El Paso County, I wouldn't</p> <p>6 get the driver's license number or the social security</p> <p>7 number, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And are the voter registration files regularly</p> <p>10 requested from your office?</p> <p>11 MS. SPECTOR: Objection, vague.</p> <p>12 A. Regularly? I -- I mean, we get -- we get</p> <p>13 requests. I don't know exactly how many we've had, but</p> <p>14 I would say monthly at least.</p> <p>15 Q. (BY MR. WHITE) Is it a big file?</p> <p>16 MS. SPECTOR: Objection, vague.</p> <p>17 A. It's large.</p> <p>18 Q. (BY MR. WHITE) How many people are registered</p> <p>19 in the -- in the system?</p> <p>20 A. About 495,000.</p> <p>21 Q. And do you know who's requesting those files?</p> <p>22 MS. SPECTOR: Objection, vague.</p> <p>23 A. We -- it's we get different people. We've had</p> <p>24 media that requests it, we have campaigns or candidates</p> <p>25 that request it, we have the city clerks who are allowed</p> |

Lisa Wise

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Pages 142 to 145

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| <p style="text-align: right;">Page 142</p> <p>1 by law to have a copy, so they'll take the list, and</p> <p>2 that's -- that's about it.</p> <p>3 Q. (BY MR. WHITE) So does adding an additional</p> <p>4 requirement to the application for ballot by mail that's</p> <p>5 not in that public file, would you admit that that makes</p> <p>6 it more difficult for somebody to impersonate a</p> <p>7 registered voter and request their ballot?</p> <p>8 MS. SPECTOR: Objection, calls for</p> <p>9 speculation, vague.</p> <p>10 A. I mean, in my experience I have not seen an</p> <p>11 impersonation on that form, but yes, I would say it</p> <p>12 does.</p> <p>13 Q. (BY MR. WHITE) And how would you know if</p> <p>14 somebody was impersonating a registered voter and</p> <p>15 requesting their ballot illegally?</p> <p>16 MS. SPECTOR: Object to form.</p> <p>17 A. I mean, generally, when we would get the</p> <p>18 ballot, have it sent to that location, the address of</p> <p>19 the registered voter. If that person didn't ask it, we</p> <p>20 -- we'll get calls and somebody might say -- we've had</p> <p>21 this.</p> <p>22 We have had this happen, where somebody</p> <p>23 requested an annual ballot, maybe in January, and then</p> <p>24 the ballot for the March election might come and they</p> <p>25 may say I don't remember that I requested this, and so</p> | <p style="text-align: right;">Page 144</p> <p>1 Q. (BY MR. WHITE) So Ms. Wise, I'm going to hand</p> <p>2 you another document, I think this is now Exhibit 5.</p> <p>3 (Defendant's Exhibit No. 5 was marked for</p> <p>4 identification.)</p> <p>5 (Sneeze.)</p> <p>6 THE WITNESS: Excuse me.</p> <p>7 VIDEOGRAPHER: Bless you.</p> <p>8 THE WITNESS: I'm sorry, I apologize.</p> <p>9 MS. SPECTOR: You're okay.</p> <p>10 Q. (BY MR. WHITE) Have you had a chance to look</p> <p>11 at it?</p> <p>12 So Ms. Wise, can you --</p> <p>13 A. Yes.</p> <p>14 Q. -- read the title at the top of this page?</p> <p>15 A. "Voter Information Field Guide".</p> <p>16 Q. And can you read the bottom footer?</p> <p>17 A. The Exhibit 5 or the revised?</p> <p>18 Q. At the very bottom of Exhibit 5, can you read</p> <p>19 what it has on the document?</p> <p>20 A. "Revised 02/09/2021".</p> <p>21 Q. Are you familiar with this document?</p> <p>22 A. Yes.</p> <p>23 Q. And what is your understanding of what this</p> <p>24 is?</p> <p>25 A. This explains what the categories are in the</p> |
| <p style="text-align: right;">Page 143</p> <p>1 we'll show them the form and they did.</p> <p>2 So I would assume we would be either</p> <p>3 alerted to that, if a ballot was sent to an address that</p> <p>4 someone did not request it, and then once the ballot is</p> <p>5 returned, if it is, the signature verification on that.</p> <p>6 Q. (BY MR. WHITE) And do you have any history of</p> <p>7 people complaining about receiving a ballot that they</p> <p>8 didn't request?</p> <p>9 MS. SPECTOR: Objection, vague.</p> <p>10 A. Just those few examples where maybe they</p> <p>11 forgot, but we have had people come down into our office</p> <p>12 and actually review their application, and then they</p> <p>13 will. We've never had someone say no, that's absolutely</p> <p>14 not my signature. When they come in, they -- they've</p> <p>15 all agreed yes, okay, I forgot that I sent this in, or I</p> <p>16 didn't know that.</p> <p>17 MR. JEFF WHITE: It's been an hour in</p> <p>18 this session. Why don't we take a break here for a</p> <p>19 little bit?</p> <p>20 MS. SPECTOR: Okay.</p> <p>21 VIDEOGRAPHER: We are off record at 2:15</p> <p>22 p.m.</p> <p>23 (Off the record.)</p> <p>24 VIDEOGRAPHER: We are back on record at</p> <p>25 2:32 p.m.</p> | <p style="text-align: right;">Page 145</p> <p>1 voter -- in a -- in the voter registration system.</p> <p>2 Q. Does this show the information that the public</p> <p>3 can obtain with a request to your office?</p> <p>4 MS. SPECTOR: Objection, vague.</p> <p>5 A. I believe so, with the exception of the birth</p> <p>6 date. There was a case, not 100 percent sure when, but</p> <p>7 that's not, that's no longer included in our voter file</p> <p>8 made available to the public.</p> <p>9 Q. (BY MR. WHITE) So if I told you I pulled this</p> <p>10 off your website, is this out of date?</p> <p>11 A. Probably.</p> <p>12 Q. Do you --</p> <p>13 A. I would have to double check. I know that I</p> <p>14 -- what I remember that we could give the year but not</p> <p>15 the full DOB, if I remember correctly.</p> <p>16 Q. And you believe there is a case that made that</p> <p>17 the requirement?</p> <p>18 A. I believe it was an AG opinion. I don't</p> <p>19 remember exactly about DOBs being public.</p> <p>20 Q. Do you remember about when that may have come</p> <p>21 out?</p> <p>22 A. I don't, I'm sorry.</p> <p>23 Q. So we talked in detail about the application</p> <p>24 for ballot by mail in the 2020 March primary. So now I</p> <p>25 want to move to the situation where you've actually sent</p> |

Lisa Wise

April 13, 2022
Pages 214 to 217

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| <p style="text-align: right;">Page 214</p> <p>1 them. I don't know if I would say that they were trying</p> <p>2 to register, since they marked on there not citizen,</p> <p>3 very few, I think I can think of three, so obviously we</p> <p>4 sent them a rejection notification stating that they are</p> <p>5 -- they marked non-citizen, we are not able to register,</p> <p>6 as directed by law.</p> <p>7 Q. (BY MR. WHITE) Have you ever identified</p> <p>8 individuals that have successfully registered to vote,</p> <p>9 and then later you found out that they were not</p> <p>10 citizens?</p> <p>11 MS. SPECTOR: Object to form.</p> <p>12 A. Not that I can recall.</p> <p>13 Q. (BY MR. WHITE) Have you ever received any</p> <p>14 complaints about voters being paid to vote for a</p> <p>15 particular candidate?</p> <p>16 MS. SPECTOR: Object to form.</p> <p>17 A. No.</p> <p>18 Q. (BY MR. WHITE) Are you aware of any</p> <p>19 allegations of that sort in El Paso County?</p> <p>20 A. No.</p> <p>21 Q. In El Paso County do you have any issues with</p> <p>22 organizations that gather voter registration cards</p> <p>23 providing invalid registrations?</p> <p>24 MS. SPECTOR: Objection, vague.</p> <p>25 MS. PERALES: I'm sorry, could you repeat</p> | <p style="text-align: right;">Page 216</p> <p>1 you believe fraud occurs in elections in El Paso County?</p> <p>2 MS. SPECTOR: Object to form.</p> <p>3 A. In my experience in El Paso County and my</p> <p>4 experience in -- in Douglas County in Nebraska, very</p> <p>5 isolated incidents.</p> <p>6 Q. (BY MR. WHITE) And do you -- strike that.</p> <p>7 Do you think some voters in Texas think</p> <p>8 that fraud occurs in elections?</p> <p>9 MS. SPECTOR: Object to form, calls for</p> <p>10 speculation.</p> <p>11 A. I do.</p> <p>12 Q. (BY MR. WHITE) Do you hear from those voters</p> <p>13 about their concerns about fraud?</p> <p>14 MS. SPECTOR: Object to form.</p> <p>15 A. I do. However, it seems that steps that we've</p> <p>16 taken -- I mean, we used to get complaints about fraud</p> <p>17 dealing with the machines, now we have paper-based</p> <p>18 system, so that's -- you know, those are all -- have all</p> <p>19 been basically handled.</p> <p>20 So it -- it seems like we get kind of a</p> <p>21 little pocket here of an issue and then it's --</p> <p>22 hopefully, it's gets resolved by either being</p> <p>23 transparent or meeting with them, having them come lodge</p> <p>24 an accuracy test, explaining processes and then it's</p> <p>25 generally dropped.</p> |
| <p style="text-align: right;">Page 215</p> <p>1 the question? I can't hear, because you're --</p> <p>2 MR. JEFF WHITE: Oh, I'm sorry.</p> <p>3 MS. PERALES: -- facing away from me, and</p> <p>4 your voice is getting softer.</p> <p>5 MR. JEFF WHITE: Sorry. I will say it.</p> <p>6 Q. (BY MR. WHITE) Are you aware of any</p> <p>7 organizations that collect voter registration</p> <p>8 information providing you with faulty information?</p> <p>9 MS. SPECTOR: Objection, vague.</p> <p>10 A. No.</p> <p>11 Q. (BY MR. WHITE) Have you had any complaints in</p> <p>12 El Paso County about individuals providing assistance to</p> <p>13 voters but pressuring the voter to vote a certain way?</p> <p>14 MS. SPECTOR: Objection, vague, compound.</p> <p>15 A. We've had isolated incidences of someone</p> <p>16 calling and say I -- I think I heard someone tell him</p> <p>17 how to vote, or I was at the polling site and so and so</p> <p>18 was telling their wife how to vote, those isolated</p> <p>19 instance -- incidences, yes, but, you know, generally,</p> <p>20 we would call the judge and ask them, did you -- did you</p> <p>21 witness this, has this been an issue? We haven't had</p> <p>22 anything substantiated on that. It's nothing that we've</p> <p>23 had documentation on.</p> <p>24 Q. (BY MR. WHITE) So in your opinion as</p> <p>25 elections administrator, based on your experience, do</p> | <p style="text-align: right;">Page 217</p> <p>1 Q. (BY MR. WHITE) So if citizens of Texas are</p> <p>2 concerned about fraud, do you think it's a valid purpose</p> <p>3 of the legislature to take steps to reduce that concern,</p> <p>4 whether or not the fraud is actually happening or not?</p> <p>5 MS. SPECTOR: Object to form, calls for</p> <p>6 legal conclusion, vague and calls for speculation.</p> <p>7 A. I believe to take necessary steps, reasonable</p> <p>8 steps, yes.</p> <p>9 Q. (BY MR. WHITE) If voters are concerned about</p> <p>10 fraud, does that affect their confidence in the outcome</p> <p>11 of elections?</p> <p>12 MS. SPECTOR: Object to form, calls for</p> <p>13 speculation.</p> <p>14 A. Yes.</p> <p>15 Q. (BY MR. WHITE) So if the legislature takes</p> <p>16 steps that reduce their concern about fraud, would the</p> <p>17 result be that they would have greater confidence in the</p> <p>18 outcome of elections?</p> <p>19 MS. SPECTOR: Object to form, calls for</p> <p>20 speculation.</p> <p>21 A. I think that's a pretty vague question. I</p> <p>22 think there's some steps that you -- that can be taken</p> <p>23 for that, to reach that, however, I don't know if, you</p> <p>24 know, voters also lose faith in the process if they</p> <p>25 don't believe that their vote counts, or that they're</p> |

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX EE

Transcript of the Testimony of
Lisa Wise

Date:

April 15, 2022

Case:

LA UNION DEL PUEBLO ENTERO et al. vs GREGORY W. ABBOTT

Lisa Wise

April 15, 2022

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF TEXAS
 3 SAN ANTONIO DIVISION

3 LA UNION DEL PUEBLO ENTERO)
 et al.,)
 4 Plaintiffs,)
 5 v.) Civil Action No. SA-21-CV-
) 00844-XR
 6 GREGORY W. ABBOTT, et al.,)
 Defendants.)

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 10 ORAL AND VIDEOTAPED DEPOSITION OF
 LISA WISE
 11 APRIL 15, 2022
 Volume 1
 12 -----

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 16 ORAL AND VIDEOTAPED DEPOSITION OF LISA
 17 WISE produced as a witness at the instance of Plaintiff,
 18 and duly sworn, was taken in the above-styled and
 19 numbered cause on the 14th day of April, 2022 from 9:06
 20 a.m. to 5:05 p.m., before Nancy Newhouse, a Certified
 21 Shorthand Reporter in and for the State of Texas,
 22 reported by oral shorthand, located at the 500 East San
 23 Antonio, Room 503, El Paso, Texas 79901, pursuant to the
 24 Federal Rules of Civil Procedure, and the provisions
 25 stated on the record or attached hereto.

Lisa Wise

April 15, 2022
Pages 34 to 37

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| <p style="text-align: right;">Page 34</p> <p>1 A. I don't believe that we contacted our vendor. 2 We -- we can import that list into -- into our system 3 without, I believe, going through there, unless there's 4 fields that weren't created yet or something like that, 5 so I believe we did that internally. 6 Q. (BY MS. PERALES) And so when you import that 7 update into your system, would that have to be done 8 individually by voter, or could it come as a multiple- 9 voter input to you? 10 BY MS. SPECTOR: Object to form. 11 A. I believe as one -- one report, we would do 12 one action to import it. 13 Q. (BY MS. PERALES) Do you know if that update 14 information was provided to El Paso County in a way that 15 you could import it? 16 MS. SPECTOR: Object to form. 17 A. I believe so; how -- I -- however, I have to 18 say I'm not 100 percent sure. 19 Q. (BY MS. PERALES) So is it your best 20 understanding that El Paso County did, in fact, receive 21 and import that update from the Secretary of State? 22 MS. SPECTOR: Object to form. 23 A. Yes. 24 Q. (BY MS. PERALES) And it is -- is it also fair 25 to say that, after that update, you still had many</p> | <p style="text-align: right;">Page 36</p> <p>1 A. Correct. 2 Q. And if the worker saw, for example, no 3 driver's license or last four of the social for that 4 voter, what would the worker do with the application for 5 ballot by mail right in that moment? 6 A. You would mark it as pending, and we would -- 7 we would send them a notice, a notification, letting 8 them know that this information was missing, with a 9 clean application, eventually, with a voter registration 10 form, so if they wanted to match that up, and -- and 11 mail it back out. 12 Q. Okay. And would you do that immediately, or 13 would you put that application for ballot by mail or 14 mail ballot to the side, to wait a day or so to check 15 the ballot tracker and see if you could get updated 16 information that way? 17 A. We were turning them around in about 24 to 48 18 hours; however, we still were tracking -- we were still 19 checking ballot tracker one by one on pending or 20 rejected, to see if those had -- had been updated. 21 Q. Okay. So when you were sending the voter the 22 notice that you -- you were unable to confirm the number 23 on their application for ballot by mail, for example, 24 would you enclose that original application for ballot 25 by mail in the mailing back to the voter, or would you</p> |
| <p style="text-align: right;">Page 35</p> <p>1 voters for whom you were unable to match information 2 that they provided on their application for ballot by 3 mail, or mail ballot related to ID number? 4 MR. JEFFREY WHITE: Objection, form. 5 A. Yes. 6 Q. (BY MS. PERALES) Yesterday you mentioned that 7 when you had either an application for ballot by mail or 8 mail ballot with a number that you could not match, that 9 you would go into TEAM and see if there was an update on 10 that voter's ID number information, is that correct? 11 A. We would go into the ballot tracker. That was 12 the -- I'm sorry, if I said TEAM I meant ballot tracker. 13 Q. Probably my mistake in note-taking. 14 So I want to walk you through those steps 15 from when you received the application for ballot by 16 mail or mail ballot. 17 So if you can think about that time 18 leading up to the March 2022 primary election, and your 19 office or one of your workers would receive an 20 application for ballot by mail, and there would be an ID 21 number written on there, that worker would then look up 22 the voter, is that how it would work? 23 A. Correct. 24 Q. That worker would be looking up the voter in 25 the El Paso County system, is that right?</p> | <p style="text-align: right;">Page 37</p> <p>1 hang onto the application for ballot by mail? 2 A. We would hang on to that. But the 3 notification also informed them how they could get on 4 ballot tracker. So honestly, until we sent them that 5 notification, the voter real -- wasn't aware that they 6 -- their ballot -- ballot tracker existed. So we would 7 keep it, we would send them a clean copy with the 8 notification and -- and how they could get on the ballot 9 tracker, if they wanted, or just send in a new 10 application. 11 Q. So because you retained the applications for 12 ballot by mail, you were able then to both notify the 13 voter, but maybe also use that document to check in a 14 day or so against the ballot tracker, to see if the 15 information had been updated? 16 A. Correct. 17 Q. How many times would you check for, let's say, 18 one particular application for ballot by mail, was it 19 just after that couple of days later, then you would 20 just put it aside if you still couldn't match it? 21 A. No. We'd continue to check until we basically 22 had no more time to check. We -- we asked for reports, 23 you know, or, I mean, we were kind of doing two things. 24 We were asking reports for the SOS, we were also trying 25 to get our vendor to work with that system, to give us</p> |

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX FF

Lisa Wise

April 18, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO)
ENTERO, et al.,)
)
Plaintiffs,)
)
vs.)
) NO. 5:21-cv-844-XR
GREGORY W. ABBOTT, et al.,)
)
Defendants.)

ORAL AND VIDEOTAPED DEPOSITION OF
LISA WISE
April 18, 2023
(REMOTELY REPORTED)

The Oral and Videotaped Deposition of LISA WISE,
produced as a witness at the instance of the defendant,
and duly sworn, was taken in the above-styled and
numbered cause on the 18th of April, 2023 from 9:13 a.m.
to 3:27 p.m., in and for the State of Texas, reported by
machine shorthand, conducted El Paso County Courthouse
500 E. San Antonio, 5th Floor, Suite 503 El Paso, Texas
79901, pursuant to the Federal Rules of Civil Procedure
and the provisions stated on the record or attached
hereto.

Lisa Wise

April 18, 2023
Pages 38 to 41

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| <p style="text-align: right;">Page 38</p> <p>1 Q. (BY MS. HUNKER) That's a good question --</p> <p>2 that's a good distinction.</p> <p>3 So you receive applications for ballots by</p> <p>4 mail weeks, if not months, in advance of an election,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. So let's talk then first about the ones</p> <p>8 that are received well before the election -- before</p> <p>9 the -- the ballots go out.</p> <p>10 When does your office check to determine</p> <p>11 whether or not the application for ballot by mail</p> <p>12 satisfied the ID number requirement after it arrived?</p> <p>13 MS. LEBEL: Object to form.</p> <p>14 A. Usually that day or the next business day.</p> <p>15 Depending on, obviously, how many we have.</p> <p>16 Q. (BY MS. HUNKER) And how long from that does it</p> <p>17 take to issue a notice of defect in the event that the</p> <p>18 number did not match?</p> <p>19 MS. LEBEL: Object to form.</p> <p>20 A. I would say 24 to 48 hours.</p> <p>21 Q. (BY MS. HUNKER) So is it fair to say that if</p> <p>22 an application for ballot by mail arrives in your</p> <p>23 office, a notice of defect will go out within 24 to 48</p> <p>24 hours in the event that that application for ballot by</p> <p>25 mail did not satisfy the ID number requirements?</p> | <p style="text-align: right;">Page 40</p> <p>1 the system; is that correct?</p> <p>2 A. Correct.</p> <p>3 Q. And in the event the number is not in your</p> <p>4 system, do you check the TEAMS database?</p> <p>5 A. We do.</p> <p>6 Q. So you mentioned that you send out an insert</p> <p>7 for the applications for ballot by mail. In the event</p> <p>8 that there was a defect due to the numbers not appearing</p> <p>9 in the system, do you also send out a voter registration</p> <p>10 form with the notice of defect?</p> <p>11 A. We do.</p> <p>12 Q. And that is because a voter can update the ID</p> <p>13 numbers for the voter registration file by submitting a</p> <p>14 voter registration form; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And did you notice that sending a voter</p> <p>17 registration form along with the notice of defect helped</p> <p>18 the voter cure?</p> <p>19 MS. LEBEL: Object to form.</p> <p>20 A. Yes.</p> <p>21 Q. (BY MS. HUNKER) And so I want to talk now</p> <p>22 about the ballot by mail.</p> <p>23 A. Okay.</p> <p>24 Q. Federal law requires that ballots by mail go</p> <p>25 out 45 days to military and overseas voters before a</p> |
| <p style="text-align: right;">Page 39</p> <p>1 MS. LEBEL: Object to form.</p> <p>2 A. Yes. Now, if we have a lot of them, I mean,</p> <p>3 that's a separate issue. I mean, it could be three</p> <p>4 days, it could be 72 hours. But in general, I would say</p> <p>5 two days. I would say 48 hours.</p> <p>6 Q. (BY MS. HUNKER) Is it fair to say that you try</p> <p>7 to get the notice of defect out as fast as possible to</p> <p>8 inform the voter of the need to cure?</p> <p>9 A. Yes.</p> <p>10 Q. And is that true for applications that arrive</p> <p>11 closer to the election?</p> <p>12 MS. LEBEL: Object to form.</p> <p>13 A. Yes.</p> <p>14 Q. (BY MS. HUNKER) And if an application for</p> <p>15 ballot by mail arrives and it has a defect other than an</p> <p>16 ID number related issue, how long does that take to go</p> <p>17 out?</p> <p>18 MS. LEBEL: Object to form.</p> <p>19 A. Same time.</p> <p>20 Q. (BY MS. HUNKER) And you are an offline county,</p> <p>21 correct?</p> <p>22 A. We're an offline county.</p> <p>23 Q. So when an application for ballot by mail comes</p> <p>24 in, your office first checks your offline county</p> <p>25 database system to determine whether the ID number is in</p> | <p style="text-align: right;">Page 41</p> <p>1 federal election, correct?</p> <p>2 MS. LEBEL: Object to form.</p> <p>3 A. Correct.</p> <p>4 Q. (BY MS. HUNKER) Did your office meet that</p> <p>5 deadline this -- for the November 2022 General Election?</p> <p>6 A. Yes.</p> <p>7 Q. And when did the ballots go out for voters who</p> <p>8 were not military or overseas?</p> <p>9 A. They got out the next week. Sometimes it's</p> <p>10 four days later, sometimes it's five days later, but</p> <p>11 they go within the next week following the military and</p> <p>12 overseas.</p> <p>13 Q. And when a ballot by mail comes in, does your</p> <p>14 office remove the flap to check whether or not the ID</p> <p>15 number was included on the carrier envelope?</p> <p>16 A. Yes.</p> <p>17 Q. And does your office check that number against</p> <p>18 the system?</p> <p>19 MS. LEBEL: Object to form.</p> <p>20 MS. HUNKER: Let me rephrase that.</p> <p>21 Q. (BY MS. HUNKER) Does your office check the ID</p> <p>22 number on the carrier envelope to the voter's</p> <p>23 registration file?</p> <p>24 A. Yes.</p> <p>25 Q. How does your office contact the voter to</p> |

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Pages 86 to 89

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| <p style="text-align: right;">Page 86</p> <p>1 Administrator account?</p> <p>2 A. Yes. It's El Paso County Elections.</p> <p>3 Q. Were any of the groups you spoke with -- you</p> <p>4 know, you gave the example of rotary groups -- were any</p> <p>5 of those in Spanish?</p> <p>6 A. None that I spoke to, no.</p> <p>7 Q. More broadly with your office, do you know if</p> <p>8 there were any?</p> <p>9 A. I know that when we did the -- like, our voter</p> <p>10 registration drives, both of -- we have Spanish speakers</p> <p>11 at those, and I know that they did address that with</p> <p>12 people that had questions and things like that.</p> <p>13 So I know they were able to communicate if</p> <p>14 somebody brought that question up in Spanish at those</p> <p>15 locations, but -- those events. But when I would speak</p> <p>16 at events, no.</p> <p>17 Q. I think you said you did not have any paid</p> <p>18 media in connection with the November 2022 General,</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. Who developed the content of this outreach?</p> <p>22 Let's take them one at a time.</p> <p>23 So we'll start with, you know, what you're</p> <p>24 going to say in an in-person town hall, you know, who</p> <p>25 comes up with the content for that?</p> | <p style="text-align: right;">Page 88</p> <p>1 anything on the insert?</p> <p>2 A. No.</p> <p>3 Q. And then for social media, were you also coming</p> <p>4 up with the content for that?</p> <p>5 A. Yes.</p> <p>6 Q. Did you consult with the SOS on your voter</p> <p>7 education efforts in any way beyond the insert?</p> <p>8 A. No.</p> <p>9 Q. Were you aware during the General Election</p> <p>10 period of the voter education efforts conducted by the</p> <p>11 Secretary of State?</p> <p>12 MS. LEBEL: Object to form.</p> <p>13 A. I'm aware that they had mentioned that that was</p> <p>14 going to be a component.</p> <p>15 But as far as voter education, we would</p> <p>16 receive our advisories, but I did not -- I was not</p> <p>17 seeing anything out in the -- I guess, in the public if</p> <p>18 that's what you're asking.</p> <p>19 Q. (BY MR. STEWART) Yeah. Maybe I'll ask it more</p> <p>20 crisply, you know.</p> <p>21 Did you notice the presence of the</p> <p>22 Secretary of State's voter education efforts during the</p> <p>23 General Election?</p> <p>24 MS. HUNKER: Objection. Form.</p> <p>25 MS. LEBEL: Object to form.</p> |
| <p style="text-align: right;">Page 87</p> <p>1 MS. LEBEL: Object to form.</p> <p>2 A. Generally I do. When -- and it's basically</p> <p>3 based off of the insert and things like that, which I</p> <p>4 created in conjunction with our County Attorney's Office</p> <p>5 to make sure there wasn't any issue with that. And then</p> <p>6 also, share that with the SOS, just to let them know</p> <p>7 that we were doing that and -- so they knew that that</p> <p>8 was something we were promoting.</p> <p>9 Q. (BY MR. STEWART) Did the SOS, and I assume you</p> <p>10 mean the Secretary of State --</p> <p>11 A. Yes, yes --</p> <p>12 Q. Yeah, just for the record.</p> <p>13 Did the SOS have any feedback on the</p> <p>14 insert?</p> <p>15 A. I think they supported that. I mean, you know,</p> <p>16 we had had those conversations that other counties were</p> <p>17 also doing some inserts. And that's kind of where we</p> <p>18 got the idea, too. So I believe they were in favor of</p> <p>19 it.</p> <p>20 Q. Did you pattern your insert off another county?</p> <p>21 MS. LEBEL: Object to form.</p> <p>22 A. No, I don't think we did. We may have picked</p> <p>23 from a couple that we saw that we liked, but we really</p> <p>24 drafted that on our own with our attorneys.</p> <p>25 Q. (BY MR. STEWART) Did the SOS ask you to change</p> | <p style="text-align: right;">Page 89</p> <p>1 A. I remember a press release. And that's --</p> <p>2 that's what I remember.</p> <p>3 Q. (BY MR. STEWART) Okay. Did you receive any</p> <p>4 feedback from voters regarding the voter education</p> <p>5 efforts you undertook?</p> <p>6 A. Yes. I mean, I know that they did appreciate</p> <p>7 the insert, and we -- especially with the ballot, where</p> <p>8 we would send the picture of what the envelope would</p> <p>9 look like and highlight where they were supposed to</p> <p>10 actually fill it in and send the screenshot. I know</p> <p>11 that people -- we did get positive feedback on that.</p> <p>12 Q. Did you hear from any voters who were</p> <p>13 continuing to struggle with the ID number requirements</p> <p>14 during the General Election?</p> <p>15 MS. LEBEL: Object to form.</p> <p>16 MS. HUNKER: Object to form.</p> <p>17 A. Yes, we did.</p> <p>18 Q. (BY MR. STEWART) About how many?</p> <p>19 MS. LEBEL: Object to form.</p> <p>20 A. That's really tough to -- to give. I didn't</p> <p>21 keep -- I didn't keep track of that. We would get some</p> <p>22 calls, and I -- I don't know the number.</p> <p>23 Q. (BY MR. STEWART) Was it primarily by phone?</p> <p>24 MS. LEBEL: Object to form.</p> <p>25 A. Primarily by phone. We would -- we would get</p> |

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Pages 90 to 93

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| <p style="text-align: right;">Page 90</p> <p>1 maybe something on an application, a little note like, 2 why do I have to fill this out, like, something like 3 that. But mostly phone. 4 Q. (BY MR. STEWART) Was most of that feedback 5 regarding the ID requirement? 6 MS. LEBEL: Object to form. 7 MS. HUNKER: Objection. Form. 8 A. Was the feedback about the ID requirement 9 regarding the ID? 10 Q. (BY MR. STEWART) Yeah. I guess that's -- let 11 me -- 12 A. Sorry. 13 Q. -- strike that question and make -- make it 14 much clearer. 15 I guess I would say, what portion of the, 16 you know, overall feedback you received from voters 17 during the General Election period pertained to the ID 18 requirement? 19 MS. LEBEL: Object to form. 20 MS. HUNKER: Object to form. 21 A. It's hard for me to really quantify that, 22 honestly. Because, like I said, we really didn't 23 keep -- keep track of it in, like, how many calls we got 24 about the ID. But we did still spend a lot of time 25 explaining ID -- ID requirements to -- to voters that</p> | <p style="text-align: right;">Page 92</p> <p>1 Q. That did not begin during the General -- 2 right -- that predated the General? 3 A. That predated the General. 4 Q. Why did you continue to give that advice? 5 A. We had done that about -- we didn't do it 6 initially in March until we started to see these -- you 7 know, these rejection rates and these -- coming back, so 8 then we started to include it, I would say about, 9 halfway through the actual process in -- for the March 10 election. 11 So basically we just said, look, let's -- 12 let's not wait for an application to be rejected, let's 13 just give them all this information at the very 14 beginning. So we -- if somebody asked us for, you know, 15 an application, then with the application we would send 16 them that information. 17 Now, people can also get an application on 18 our website or they could get it from a party. You 19 know, there might be other entities that send out the 20 application. We can't control that they didn't have the 21 insert or any of that information in there, and so we 22 may still receive applications that were not -- that 23 didn't comply with that requirement. 24 Q. Were there any ways besides the insert that you 25 transmitted that message to voters?</p> |
| <p style="text-align: right;">Page 91</p> <p>1 were on it to vote by mail. 2 Q. (BY MR. STEWART) Did you generate any topics 3 for future voter education based on what you were 4 hearing from voters? 5 A. So generally we do a pretty robust media 6 package for presidential years 'cause we always have 7 something that comes up. 8 For example, in 2024 -- I'm sorry. In 9 2020, we had the pandemic. So in 2024, we will, again, 10 do a media package, and one of the components will be 11 the identifier. We will really try to replace some of 12 that pandemic language with the -- the identifier, the 13 changes, and, frankly, any major changes that come out 14 of this legislative session. 15 So we -- we try to do that because we have 16 a lot of voters who do only vote every four years, and 17 we like to -- you know, we don't have an endless budget, 18 so we kind of put that all in -- what we can in the 19 presidential years. 20 Q. I -- I believe you've already said, correct me 21 if I'm wrong, that at some point, your office began 22 advising voters to put both their driver's license or ID 23 number and their Social Security number on mail ballot 24 materials; is that correct? 25 A. Correct.</p> | <p style="text-align: right;">Page 93</p> <p>1 MS. LEBEL: Object to form. 2 MS. HUNKER: Object to form. 3 A. The social media, the -- you know, what we did 4 with interviews. Anything we could, we would try to get 5 that information out. But frankly, you know, the best 6 bang for the buck was with the application because they 7 were, we know, going to fill that out, and it was there 8 included in the packet. 9 MR. STEWART: I want to use -- I think 10 we're on number 5? 11 THE REPORTER: Yes. 12 Q. (BY MR. STEWART) And I don't want to rush you 13 reading it, but, in general, do you recognize this 14 document? 15 A. Yes. 16 Q. And what is this? 17 A. This is our application for ballot by mail. 18 Q. And your office uses the standard ABBM prepared 19 by the Secretary of State, correct? 20 A. We do. 21 Q. And you would agree that the portion that 22 implements the ID number requirement is below the 23 bold -- or the capital letters, rather, you must provide 24 one and then lower case of the following numbers? 25 A. Yes.</p> |

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Pages 118 to 121

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| <p style="text-align: right;">Page 118</p> <p>1 Let me put it this way; during the</p> <p>2 November 2022 General Election cycle, did El Paso County</p> <p>3 do any investigation of whether the ID numbers, so</p> <p>4 driver's license, SSN, and ID number, contained in VOTEC</p> <p>5 are accurate?</p> <p>6 MS. LEBEL: Object to form.</p> <p>7 MS. HUNKER: Object to form.</p> <p>8 A. So, like, specifically check if, like, my</p> <p>9 driver's license matches what the DPS gave the State?</p> <p>10 Q. (BY MR. STEWART) Yes.</p> <p>11 A. No.</p> <p>12 Q. Did you conduct any investigation like that for</p> <p>13 El Paso County voters located in TEAM?</p> <p>14 A. No.</p> <p>15 Q. Earlier today, I believe counsel asked you</p> <p>16 whether the November 2022 General Election was</p> <p>17 successful in El Paso County, specifically as it relates</p> <p>18 to mail balloting; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And you said it was successful, right?</p> <p>21 A. Yes.</p> <p>22 Q. How do you define success in this circumstance?</p> <p>23 A. So -- it -- when I would look at success, I</p> <p>24 mean, that was kind of a question I asked, is that I</p> <p>25 would say, you know, were we have -- was there anything</p> | <p style="text-align: right;">Page 120</p> <p>1 Q. So when you say that the election was</p> <p>2 successful, was that making any comment on, you know,</p> <p>3 whether the mail ballots rejection rate was acceptable?</p> <p>4 MS. HUNKER: Object to form.</p> <p>5 MS. LEBEL: Object to form.</p> <p>6 A. I don't think so. I think it's just, to me,</p> <p>7 did we do the best we could with what we had? And</p> <p>8 that's, I guess, how I kind of looked at it.</p> <p>9 Q. (BY MR. STEWART) And I think you also</p> <p>10 testified earlier that you weren't aware of any voters</p> <p>11 who were unable to vote because of SB1; is that right?</p> <p>12 A. Correct.</p> <p>13 Q. That doesn't include voters having their mail</p> <p>14 ballots rejected because of the identification number</p> <p>15 requirement, correct?</p> <p>16 A. Correct.</p> <p>17 Q. How did you understand -- so, let me strike</p> <p>18 that.</p> <p>19 What did you include in not able to vote</p> <p>20 then when you were asked that question?</p> <p>21 A. I'm sorry?</p> <p>22 Q. Sure.</p> <p>23 When counsel asked you, you know, were any</p> <p>24 voters unable to vote, how did you determine whether</p> <p>25 someone was unable to vote?</p> |
| <p style="text-align: right;">Page 119</p> <p>1 that violated the code? Was there anything that stood</p> <p>2 out that was obviously we'd done something wrong and</p> <p>3 that kept voters from voting? You know, those kinds of</p> <p>4 things is how I guess I would deem that.</p> <p>5 Q. So were you answering it from the standpoint of</p> <p>6 the El Paso County Election Administration's</p> <p>7 administration of the election?</p> <p>8 A. Yes.</p> <p>9 Q. Do you believe there were areas for</p> <p>10 improvement?</p> <p>11 A. Yes.</p> <p>12 Q. What were those?</p> <p>13 A. There's always things I know that we can do</p> <p>14 better. I think that in -- with regards to -- we did</p> <p>15 have to send out a corrected ballot. I know we</p> <p>16 mentioned that earlier. We -- I believe there's things</p> <p>17 we could be quicker on. I mean, I know sometimes we get</p> <p>18 stuff out in 48 hours. With the sheer volume, sometimes</p> <p>19 we can't get stuff out in 24 hours. I'd love to have</p> <p>20 our staff trained even better, having more knowledge on</p> <p>21 the Election Code.</p> <p>22 So there's always a couple of things I'd</p> <p>23 love to see us do a little bit differently. Have more</p> <p>24 money. I'd love to do a media package every election,</p> <p>25 every general election. Those are our wish list, so --</p> | <p style="text-align: right;">Page 121</p> <p>1 A. You know, I guess a final rejection on a</p> <p>2 ballot, that if they had sent that and they weren't able</p> <p>3 to cure in time, if we didn't get in touch with them.</p> <p>4 We did hear from a few voters where we sent their ballot</p> <p>5 back to be cured, and they thought it was just a second</p> <p>6 ballot, and so they didn't open it. I do remember two</p> <p>7 voters specifically that called our office that said, I</p> <p>8 tossed that ballot because I thought that was a second</p> <p>9 ballot and you just sent me another ballot.</p> <p>10 And so, I mean, those -- obviously those</p> <p>11 voters didn't vote, and they thought they had voted</p> <p>12 because they did not take the -- they did not open up</p> <p>13 the notice of defect. So those, you know, little kind</p> <p>14 of pockets out there.</p> <p>15 Q. So those are people you would characterize as</p> <p>16 unable to vote in the past election?</p> <p>17 A. Well, they thought they did, and they didn't.</p> <p>18 So --</p> <p>19 Q. Sure.</p> <p>20 MR. STEWART: Can we go off the record for</p> <p>21 two minutes?</p> <p>22 MS. LEBEL: Yup.</p> <p>23 THE VIDEOGRAPHER: The time is 1:36 p.m.</p> <p>24 And we're off the record.</p> <p>25 (A recess was taken.)</p> |

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Pages 174 to 177

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| <p style="text-align: right;">Page 174</p> <p>1 Q. Did any nonprofit group contact your office</p> <p>2 about concerns over the voting assistance oath?</p> <p>3 MS. LEBEL: Object to form.</p> <p>4 A. I don't believe so.</p> <p>5 Q. (BY MS. HUNKER) Do you recall talking to</p> <p>6 counsel about a person in your staff who handled notices</p> <p>7 of defects?</p> <p>8 A. Yes.</p> <p>9 MS. LEBEL: Object to form and to the</p> <p>10 extent this is concerning any communications with your</p> <p>11 attorneys on the basis of privilege. You said talked to</p> <p>12 counsel.</p> <p>13 MS. HUNKER: Oh, so let me clarify.</p> <p>14 Q. (BY MS. HUNKER) Do you recall during this</p> <p>15 deposition opposing counsel asking you about a person in</p> <p>16 your office who handled notices of defects?</p> <p>17 A. Yes.</p> <p>18 Q. Did that person handle notifying voters who had</p> <p>19 detects other than the ID requirement -- the ID number</p> <p>20 requirement?</p> <p>21 A. Yes.</p> <p>22 Q. Would it be fair to say that she handled</p> <p>23 implementing the cure provisions in Senate Bill 1?</p> <p>24 MS. LEBEL: Object to form.</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 176</p> <p>1 that correct?</p> <p>2 A. I've seen a press release, I believe -- that I</p> <p>3 remember seeing. And we received documents informing us</p> <p>4 as election administrators, but I do not remember seeing</p> <p>5 anything for a voter besides the press release.</p> <p>6 Q. Were you specifically looking for the Secretary</p> <p>7 of State's voting education material?</p> <p>8 A. No.</p> <p>9 Q. And when you were saying that you were</p> <p>10 receiving notifications from the Secretary of State's</p> <p>11 Office, can you maybe describe in a little bit more</p> <p>12 detail what was in those communications?</p> <p>13 A. Sure.</p> <p>14 We would receive, like, copies of the press</p> <p>15 release, you know, Secretary of State announces, changes</p> <p>16 via SB1, updated poll watcher training, those things.</p> <p>17 We would get those notifications in our -- to our email.</p> <p>18 Q. Did you use any of the Secretary of State's</p> <p>19 voting education materials in your own voter education</p> <p>20 outreach?</p> <p>21 A. I don't believe so.</p> <p>22 MS. HUNKER: No further questions.</p> <p>23 MS. LEBEL: Can we take 5 to 10 minutes off</p> <p>24 the record?</p> <p>25 THE VIDEOGRAPHER: The time is 3:16 p.m.,</p> |
| <p style="text-align: right;">Page 175</p> <p>1 Q. (BY MS. HUNKER) Do you recall earlier in the</p> <p>2 deposition opposing counsel asking whether you thought</p> <p>3 the number of voters who had their ballot rejected due</p> <p>4 to missing or mismatched ID numbers would ever be zero?</p> <p>5 A. Yes.</p> <p>6 Q. Do you believe that the number of voters who</p> <p>7 had their ballot rejected due to missing or mismatched</p> <p>8 signature will ever be zero?</p> <p>9 MS. LEBEL: Object to form.</p> <p>10 A. No.</p> <p>11 Q. (BY MS. HUNKER) And so I want to clarify a</p> <p>12 question that I had asked earlier based on the opposing</p> <p>13 counsel's subsequent question.</p> <p>14 To the best of your knowledge, you're not</p> <p>15 aware of any voters who were unable to vote in-person in</p> <p>16 El Paso County during the November 2022 General Election</p> <p>17 because of SB1 or any of its provisions, correct?</p> <p>18 MS. LEBEL: Object to form.</p> <p>19 A. Not that I know of.</p> <p>20 Q. (BY MS. HUNKER) Do you recall discussing the</p> <p>21 Secretary of State's voter education program with</p> <p>22 counsel -- opposing counsel earlier in this deposition?</p> <p>23 A. Yes.</p> <p>24 Q. And do you recall stating that you had not seen</p> <p>25 the Secretary of State's voter education materials; is</p> | <p style="text-align: right;">Page 177</p> <p>1 and we're off the record.</p> <p>2 (A recess was taken.)</p> <p>3 THE VIDEOGRAPHER: The time is 3:36 p.m.</p> <p>4 We're back on the record.</p> <p>5 MS. LEBEL: I don't have any questions. So</p> <p>6 the witness is ready to review and sign.</p> <p>7 MS. HUNKER: Just before we do, does the</p> <p>8 intervenor defendants have any questions they want to</p> <p>9 ask?</p> <p>10 MR. CORE: We have no questions. Thank</p> <p>11 you.</p> <p>12 MR. STEWART: I have no further questions.</p> <p>13 MS. PERALES: No questions here.</p> <p>14 MS. HUNKER: All right.</p> <p>15 THE VIDEOGRAPHER: This concludes the</p> <p>16 deposition. Time is 3:27 p.m. We are now off the</p> <p>17 record.</p> <p>18 (The deposition concluded.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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§
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX GG

Vice Chair, Natural Resources
and Economic Development
Texas Judicial Council
Chair, Eagle Ford Shale
Legislative Caucus



Judith Zaffirini
State Senator, District 21
President Pro Tempore, 1997

Committees
Administration
Business and Commerce
State Affairs

December 3, 2018

The Honorable
Bryan Hughes, Chair
Senate Select Committee
on Election Security
P.O. Box 12068
Austin, TX 78711



Dear Chair Hughes:

Thank you for your leadership as Chair of the Senate Select Committee on Election Security. It is my privilege to serve with you, and I appreciate the opportunity to share my perspective regarding the Committee's Interim Report to the 86th Legislature. The report includes numerous good recommendations, and I am delighted to sign it. This letter, however, is to record my concerns regarding the need to (1.) provide concrete recommendations to address mail-in ballot fraud and (2.) reflect that Texas lags behind much of the nation in modernizing and simplifying the registration process, which is critical in offering adequate opportunities for all Texans to register to vote.

During the last several sessions many legislators have focused on voter ID laws intended to prevent in-person voter fraud, but not on the increasingly serious problem of mail-in ballot fraud. Our Committee heard troubling testimony regarding the state of election security related to the latter. The report's recommendation that the Legislature needs to find a solution to the "vexing issue" of mail-in ballot fraud at nursing homes and assisted living facilities is a good start, but we must take all possible steps to address voting irregularities caused by fraudulent mail-in ballots.

The report also states that current federal and state laws governing Texas' voter registration system "create a broad base of opportunity for registration for all Texans" and describes how eligible persons may register to vote. It does not mention, however, that we have not adopted secure voter registration reforms that

Letter to Chair Bryan Hughes
December 3, 2018
Page 2 of 2

many other states have. Texas, for example, is one of only thirteen states that does not offer online registration. The Legislature should consider this and other secure methods to facilitate voter registration.

Thank you for your dedication to the many important issues we examined during the 85th Interim. I look forward to continuing to work with you and other members of the committee during our next legislative session.

May God bless you.

Very truly yours,

A handwritten signature in black ink, reading "Judith Zaffirini". The signature is written in a cursive, flowing style.

Judith Zaffirini

Z/ah

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX HH

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNIÓN DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

5:21-cv-844-XR

DECLARATION OF CHRISTINA WORRELL ADKINS SUPPORTING
DEFENDANTS' RESPONSE TO PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT

1. My name is Christina Worrell Adkins. I am over 18 years old and competent to make this declaration. I currently serve as the Director of the Elections Division at the Texas Secretary of State's Office and have been in this position since March 10, 2023 (initially as the Acting Director until April 26, 2023). Prior to becoming Elections Director, I served as Legal Director of the Elections Division, and I have worked at the Secretary of State's Office since 2012.
2. The Texas Secretary of State is the chief election officer for Texas. As the State's chief election officer, the Secretary, through the Elections Division, prepares and distributes guidance to appropriate state and local authorities in the administration of elections in Texas and provides certain administrative support.
3. In accordance with the Texas Election Code, the Secretary of State's Elections Division assists and advises election authorities on the application, operation, and interpretation of the Election Code and other election laws. The Secretary of State also is directed to obtain and maintain uniformity in the application, operation, and interpretation of the Election Code and other election laws. Our office discharges these obligations through, among other things, election advisories, handbooks and manuals, training presentations, and email correspondence to election authorities (including mass emails to election officials across the State). In this respect, the Secretary of State serves an advice-and-assistance role; ultimately, election officials—in consultation with their own counsel—must determine whether and how their actions comply with the Election Code.
4. In its 88th Regular Session, the Texas Legislature passed several bills involving provisions at issue in this litigation, including changes related to the procedures for applications for

ballot by mail (ABBM), mail ballots, and in-person voting for individuals with disabilities. Among other benefits, these changes should help improve the accessibility and effectiveness of the corrective action process, which allows voters to cure various defects in their ABBMs and mail ballots.

5. Senate Bill 1599 adopts multiple changes to the procedures for reviewing and correcting ABBMs and mail ballots. The bill creates a comprehensive corrective action process for voters to correct defects in their ABBMs, including allowing voters to utilize the Secretary of State's Ballot by Mail Tracker to complete certain corrective actions that are not available under existing law. The bill provides additional time, on a uniform basis, for early voting ballot boards (EVBBs) to meet to initiate the corrective action process sooner, thus allowing voters more time to correct defects in their mail ballots. Senate Bill 1599 simplifies the authentication provisions for accessing the Ballot by Mail Tracker by removing the requirement that a voter enter their voter registration address to utilize the tracker; a voter will now be required to enter their date of birth (in addition to the existing requirements of the voter's name, last four digits of social security number, and driver's license number or personal identification card number). The bill also changes the materials that an EVBB or signature verification committee (SVC) sends to a voter who submits a defective carrier envelope; as a result of Senate Bill 1599, voters would be mailed—and be authorized to return to the EVBB or SVC—a form to complete the corrective action process (rather than having to send the defective carrier itself) in addition to being able to utilize the Ballot by Mail Tracker or cancel their ABBM to correct the defect.
6. House Bill 357, similar to Senate Bill 1599, amends the authentication requirements for voters to access the Ballot by Mail Tracker. The bill removes the requirement that a voter enter their registration address to enter the system. Instead, a voter would enter their date of birth and other identifying information specified in paragraph 5 above.
7. House Bill 315 requires the Secretary of State to add a statement to the officially prescribed ABBM explaining the benefits of furnishing a telephone number on the ABBM, including how that information assists the early voting clerk. Pursuant to other provisions of the Texas Election Code, there are circumstances in which election officials may notify a voter by telephone of defects in their ABBM or mail ballot. Accordingly, in certain instances, by including their telephone number on an ABBM, a voter may be able to receive more timely notice of a defect in their balloting materials and resolve that defect prior to the specified deadlines. House Bill 315 will result in additional information being provided directly to voters regarding the State's mail ballot procedures and will allow the Secretary of State to highlight the importance of including a telephone number on balloting materials.
8. Senate Bill 975 codifies existing processes regarding the issuance of a personal identification certificate to a person who surrenders their driver's license. The bill directs

the Department of Public Safety to notify such persons that their voter registration information will need to be updated to include the identification number of the newly issued certificate and provided an opportunity to update their voter registration information at the time of applying for the certificate to include the new identification number.

9. Senate Bill 477 requires each polling place to have an area for parking not smaller than the size of one parking space reserved for curbside voting under Section 64.009 of the Texas Election Code. The bill directs election officials to clearly mark the area with a sign indicating that the space is reserved for voters who are unable to enter the polling place and displaying a telephone number that voters can use to request assistance from election officers at the polling place (or providing a button or intercom that the voter may use to request assistance from an election officer).

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 23, 2023.


Christina Worrell Adkins

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX II

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

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|-----------------------------|---|---------------------------|
| LA UNION DEL PUEBLO ENTERO, |) | |
| et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| V. |) | Case No. 5:21-cv-844 (XR) |
| |) | (Consolidated Cases) |
| STATE OF TEXAS, et al., |) | |
| |) | |
| Defendants. |) | |

ORAL DEPOSITION OF:

CHRISTINA ADKINS

April 11, 2023

Oral deposition of CHRISTINA ADKINS, produced as a witness at the instance of the plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on the 11th day of April, 2023, before Patrick Stephens, Certified Court Reporter, at 209 W. 14th Street, Austin, Texas 78701.

Christina Adkins

April 11, 2023
Pages 14 to 17

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|---|---|
| <p style="text-align: right;">Page 14</p> <p>1 So you testified that your office has heard a lot of</p> <p>2 complaints from voters who were unable to use the ballot tracker</p> <p>3 because of the residence address field, which is required under</p> <p>4 the statute, and you used your own address as an example where</p> <p>5 west of West 51st Street was not coded correctly to validate</p> <p>6 your address when you were trying to use the ballot tracker. Do</p> <p>7 you remember that?</p> <p>8 A I do.</p> <p>9 Q Great. Did your office suggest that the legislature</p> <p>10 enact legislation that would replace residence address with date</p> <p>11 of birth for the purposes of using the ballot tracker?</p> <p>12 A No.</p> <p>13 MS. HUNKER: Objection, form.</p> <p>14 BY MS. YUN (resuming):</p> <p>15 Q How did this bill come about in terms of interactions</p> <p>16 between your office and any legislators who were proposing this?</p> <p>17 MS. HUNKER: Objection, form, and I'm also going</p> <p>18 to object on legislative privilege. We object today to any</p> <p>19 questioning that would elicit testimony that protected -- that</p> <p>20 is protected by legislative privilege. Both the State</p> <p>21 defendants and individual legislators have been diligent in</p> <p>22 asserting this privilege to the fullest extent of the law. The</p> <p>23 Office of the Attorney General has represented and will continue</p> <p>24 to represent many legislators for the purpose of protecting</p> <p>25 their privilege.</p> | <p style="text-align: right;">Page 16</p> <p>1 that they propose this legislation. To the -- to the best of</p> <p>2 your knowledge, how did this bill come about?</p> <p>3 MS. HUNKER: Similar objection -- same objection,</p> <p>4 also objection, form; lack of personal knowledge.</p> <p>5 BY THE WITNESS (resuming):</p> <p>6 A Representative Bucy's office had a -- a profound</p> <p>7 interest in this aspect of legislation from last session because</p> <p>8 the ballot-by-mail tracker was something that he was heavily</p> <p>9 involved in and was advocating for. His office reached out to</p> <p>10 my office to see what -- what was happening with respect to the</p> <p>11 tracker, how the implementation was, and they specifically asked</p> <p>12 if we had any issues that had been reported to us or any</p> <p>13 problems that they needed to be aware of, you know, in dealing</p> <p>14 with voter concerns, and we relayed to them that we were getting</p> <p>15 a lot of calls about difficulty getting into the tracker because</p> <p>16 of the residence address. And so they, you know, initiated a</p> <p>17 conversation with us about that -- several conversations about</p> <p>18 that particular component to it and did ask us about, you know,</p> <p>19 What are other alternatives that could be used other than</p> <p>20 residence address.</p> <p>21 Q And was your office's suggestion date of birth instead</p> <p>22 of residence address?</p> <p>23 MS. HUNKER: Objection, form; also objection,</p> <p>24 legislative privilege. I represent Representative Bucy for the</p> <p>25 purposes of protecting his privilege today. On behalf of</p> |
| <p style="text-align: right;">Page 15</p> <p>1 These exact issues have been and will continue to</p> <p>2 be the subject of numerous appeals and emergency proceedings.</p> <p>3 Nobody can question where the State stands on these issues.</p> <p>4 Moreover, until the Fifth Circuit rules on these issues, it</p> <p>5 would be wholly inappropriate to conduct any questioning</p> <p>6 regarding any privileged information.</p> <p>7 We vehemently disagree with the district court in</p> <p>8 this matter and we have -- that we have improperly raised any</p> <p>9 legislative-privilege objections in this litigation. I have</p> <p>10 been in touch with numerous legislators and their staff and I</p> <p>11 also represent them at today's deposition for purposes of</p> <p>12 protecting their legislative privilege. These legislators have</p> <p>13 instructed me to protect their privileges in this litigation to</p> <p>14 the fullest extent permitted. It is my hope and expectation</p> <p>15 that privileged testimony will not be elicited from this witness</p> <p>16 today.</p> <p>17 MS. HUNKER: Counsel, are you instructing</p> <p>18 Ms. Adkins to not answer?</p> <p>19 MS. HUNKER: Not at this time.</p> <p>20 BY MS. YUN (resuming):</p> <p>21 Q Could you answer the question?</p> <p>22 A Could you repeat the question again?</p> <p>23 Q Sure.</p> <p>24 A Thank you.</p> <p>25 Q How -- so you just told me that you did not suggest</p> | <p style="text-align: right;">Page 17</p> <p>1 Representative Bucy, I object to the question on the basis of</p> <p>2 legislative privilege. It is wholly inappropriate for this</p> <p>3 question to be asked at all given the pending appeals to which</p> <p>4 we are all a party. We vehemently disagree with the district</p> <p>5 court's decision to permit this kind of questioning while we</p> <p>6 await a decision from the Fifth Circuit.</p> <p>7 Nonetheless, the district court has wrongfully</p> <p>8 made clear that attorneys who raise these objections faced the</p> <p>9 possibility of contempt. We have a duty to our clients to</p> <p>10 protect their privileged information. Because of the district</p> <p>11 court's orders and threats, we cannot instruct the witness not</p> <p>12 to answer this question; however, the State defendants and</p> <p>13 Representative Bucy reserve all rights to challenge this</p> <p>14 improper questioning, including sealing this portion of the</p> <p>15 transcript, preventing its further disclosure or use at trial,</p> <p>16 appealing and seeking any emergency relief from the Fifth</p> <p>17 Circuit and any other relief allowed by law. We further</p> <p>18 designate this testimony as confidential under the protective</p> <p>19 order in this matter.</p> <p>20 BY MS. YUN (resuming):</p> <p>21 Q Please answer.</p> <p>22 A When they asked us about if there are alternatives, we</p> <p>23 -- we indicated that there were alternative fields we could use,</p> <p>24 looking at some of the alternatives that are used for other</p> <p>25 components on our websites, like the Am I Registered box, and</p> |

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Pages 66 to 69

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| <p style="text-align: right;">Page 66</p> <p>1 MS. HUNKER: Objection to form.</p> <p>2 BY THE WITNESS (resuming):</p> <p>3 A Again, I don't know -- I don't know what results in</p> <p>4 that reduction. All I know is that we're going to make sure</p> <p>5 that we're doing our part to make -- to train on what the law is</p> <p>6 and what those requirements are and what opportunities are</p> <p>7 available to make corrections or to remedy those rejection</p> <p>8 issues. I don't want an election official or ballot board</p> <p>9 member to be in a position of not knowing what those options</p> <p>10 are, but that's the most that I can do.</p> <p>11 Q Okay. Do you believe that there will be reductions in</p> <p>12 general in -- okay. Let me try it again. Do you believe that</p> <p>13 there will be any further reduction in mail-ballot rejections in</p> <p>14 future elections?</p> <p>15 A I -- that, I don't know. I -- I -- I don't recall the</p> <p>16 actual rejection rate in November, but I remember that it was</p> <p>17 pretty consistent with what we had seen in previous years prior</p> <p>18 to the corrective-action process being in place -- or the ID</p> <p>19 requirements being in place. So I remember it was relatively</p> <p>20 consistent with what we had in the past. I can't really</p> <p>21 speculate on future elections because I don't know what the laws</p> <p>22 are going to be going forward. I -- I don't know what changes</p> <p>23 there might be that could -- that maybe are unrelated to this</p> <p>24 issue but could impact rejection rates.</p> <p>25 Q Okay. Absent any further legal changes, do you have</p> | <p style="text-align: right;">Page 68</p> <p>1 A Yes.</p> <p>2 Q So you said it would depend on the budget and it would</p> <p>3 depend on sort of your discussions with her?</p> <p>4 A Uh-huh. And -- and I have to throw this in: And I</p> <p>5 imagine any other subsequent law changes --</p> <p>6 Q Yes.</p> <p>7 A -- that are -- that could impact the campaign.</p> <p>8 Q Right. So you also don't know whether it will be more</p> <p>9 or less compared to what happened leading up to the November</p> <p>10 election.</p> <p>11 A Correct.</p> <p>12 Q So you testified that you don't really know exactly</p> <p>13 what would drive rejection rates down. I'm just going to apply</p> <p>14 that same principle to voter education and ask you the same</p> <p>15 question just for the sake of completeness. So do you expect</p> <p>16 that further voter education would drive down mail-ballot</p> <p>17 rejection rates in the future?</p> <p>18 A Again, I -- you know, I don't know the answer to that.</p> <p>19 I'm not -- that's -- that's not my area of expertise, and I just</p> <p>20 don't know what kind of data would -- we can look at that would</p> <p>21 give us a sense. I -- I think there's a lot of factors that --</p> <p>22 that impact rejection rates.</p> <p>23 Q Okay. What do you believe led to the reduction in the</p> <p>24 rejection rates between the March primary and the November</p> <p>25 general election in terms of mail ballots?</p> |
| <p style="text-align: right;">Page 67</p> <p>1 any predictions as to what's going to happen to the rejection</p> <p>2 rate?</p> <p>3 A I really don't. I don't know. I'm sorry.</p> <p>4 Q It's okay. So moving on to voter education as opposed</p> <p>5 to training of county officials, does your office intend to</p> <p>6 conduct more -- any more voter education concerning SB1's</p> <p>7 mail-ballot requirements in the future?</p> <p>8 A So I don't know the answer to that. I'm not the</p> <p>9 person that makes decisions on our voter-education campaign.</p> <p>10 That's our communications director who just left and we have a</p> <p>11 new one starting --</p> <p>12 Q Okay.</p> <p>13 A -- so I imagine I'll be working with that new</p> <p>14 communications director to map out what we can and can't do and</p> <p>15 what we have a budget for.</p> <p>16 Q I see. And who's the new communications director?</p> <p>17 A Her name is Alicia Pierce, and she has not started</p> <p>18 yet --</p> <p>19 Q Okay.</p> <p>20 A -- so don't scare her away.</p> <p>21 Q I just read a lot of E-mails from Mr. Taylor, so --</p> <p>22 A Sure.</p> <p>23 Q -- you know, I've never met him, but I just...</p> <p>24 A You feel like you know him.</p> <p>25 Q Exactly.</p> | <p style="text-align: right;">Page 69</p> <p>1 A I mean, again, I don't really know that I can point to</p> <p>2 any one thing. I think there's a number of factors that</p> <p>3 contribute to that. Anytime there's a change in the law, it</p> <p>4 takes a few elections for voters to get used to that change. I</p> <p>5 think our county election officials were very aggressive after</p> <p>6 the primary -- or even during the primary in educating people on</p> <p>7 those changes.</p> <p>8 I also think that our county election officials did</p> <p>9 something pretty brilliant with respect to the ID number</p> <p>10 requirements. You know, one -- one of the things that we talked</p> <p>11 about with our counties is that if somebody submitted an ABBM or</p> <p>12 a carrier envelope that was missing an ID number or they</p> <p>13 realized that the voter didn't have both numbers in the</p> <p>14 statewide voter registration system, in TEAM, they didn't just</p> <p>15 focus on correcting it for that election. They were --</p> <p>16 everybody was pretty aggressive about getting those folks to</p> <p>17 submit a new voter registration application or go online to get</p> <p>18 that update, and so we have more complete records, because that</p> <p>19 is a viable cure option is updating your voter registration</p> <p>20 record with that -- with that number.</p> <p>21 And so rather than just doing a cure for the one election,</p> <p>22 I think they were pretty good about looking at the bigger</p> <p>23 picture. And so if -- you know, they would -- they would help</p> <p>24 facilitate that change, get that information to voters, which is</p> <p>25 one of the things that we educated on, and I think the counties</p> |

Christina Adkins

April 11, 2023
Pages 70 to 73

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|---|---|
| <p style="text-align: right;">Page 70</p> <p>1 really, really harnessed that and -- and were aggressive in</p> <p>2 realizing that that could fix problems later.</p> <p>3 So I think, you know, a number of factors like that. You</p> <p>4 know, lots of training, you know, education of voters,</p> <p>5 addressing issues -- you know, identifying and addressing those</p> <p>6 issues broadly so that they weren't problems for voters in</p> <p>7 subsequent elections, and I think just better -- well, I think</p> <p>8 also there was quite a bit of misinformation going up to the</p> <p>9 primary -- leading up to the primary, and I think we talked</p> <p>10 about that last time with respect to what those ID requirements</p> <p>11 were, and I think in November, I didn't see those misstatements</p> <p>12 quite as much. So the media was better educated on what the law</p> <p>13 said.</p> <p>14 Q Right. I would like to talk -- move on to what is</p> <p>15 called EAVS, the Election Administration and Voting Survey. Do</p> <p>16 you know what that is?</p> <p>17 A I do know what it is.</p> <p>18 Q What is it?</p> <p>19 A It's a survey that's put out by the EAC every so often</p> <p>20 to gather data from all of the states and the local</p> <p>21 jurisdictions with issues related to election administration.</p> <p>22 Q And the EAC stands for the Election Assistance</p> <p>23 Commission; is that right?</p> <p>24 A That's correct.</p> <p>25 MS. YUN: For the court reporter.</p> | <p style="text-align: right;">Page 72</p> <p>1 A So we do that. I would say we do that.</p> <p>2 Q Okay. So you --</p> <p>3 A That's the only thing I can speak to.</p> <p>4 Q And I'm going to mark this next exhibit, 13. So as</p> <p>5 far as you know -- you're aware, so your office also sets</p> <p>6 deadlines for county responses.</p> <p>7 A I don't know that we set deadlines or if there's</p> <p>8 deadlines set by the EAC.</p> <p>9 Q Okay. So you communicate those deadlines to the</p> <p>10 counties and remind them.</p> <p>11 A That's correct.</p> <p>12 Q Okay. And based on this E-mail that Mr. Ingram sent</p> <p>13 out on this Exhibit 13, your office also serves as a resource</p> <p>14 for the counties in responding to the survey.</p> <p>15 A I don't know that I would say we're a resource. I</p> <p>16 mean, we're a resource generally to counties on pretty much</p> <p>17 everything, but I think on this -- I mean, we're -- we more</p> <p>18 facilitate the information getting from the EAC to them, and</p> <p>19 what I recall is actually indicated in this video. There's</p> <p>20 actually some instructional videos that the EAC puts out to tell</p> <p>21 counties what type of data they're looking for, so we -- I don't</p> <p>22 think we answer a whole lot of data-specific questions, but we</p> <p>23 just facilitate the process of them reporting their information.</p> <p>24 Q Okay. So would it be fair that your office is</p> <p>25 responsible for coordinating the effort across all counties to</p> |
| <p style="text-align: right;">Page 71</p> <p>1 BY MS. YUN (resuming):</p> <p>2 Q In Texas, who is responsible for collecting EAVS data</p> <p>3 and reporting it into the EAC?</p> <p>4 A So, in Texas, the secretary of state's office is the</p> <p>5 clearinghouse for the data. We send out the survey, we gather</p> <p>6 responses and it passes through us to the EAC.</p> <p>7 Q And so is it the secretary of state who is Texas'</p> <p>8 chief election officer for the purposes of the EAVS data?</p> <p>9 A Well, the secretary of the state is the chief election</p> <p>10 officer for the whole state, and then we have an elections</p> <p>11 division by statute that -- that supports the secretary. And so</p> <p>12 it's our division but within the secretary of state's office</p> <p>13 that sends out the survey.</p> <p>14 Q Okay. So what else other than sending out the survey</p> <p>15 does your office do with regards to the EAVS survey?</p> <p>16 A I don't know. You would have to talk to Kristi Hart.</p> <p>17 It's -- she's the one that oversees the distribution of the</p> <p>18 survey and the collection of data.</p> <p>19 Q Okay.</p> <p>20 A It -- I will add it's all self-reported data from the</p> <p>21 counties, and so I -- I don't know how -- that there's much that</p> <p>22 we do with the data other than get it back to the EAC. We do</p> <p>23 hound the counties quite a bit to get them to complete the</p> <p>24 survey.</p> <p>25 Q Okay.</p> | <p style="text-align: right;">Page 73</p> <p>1 send it -- send the data over to the EAC?</p> <p>2 A Yes. I think we're -- we're the contact for the state</p> <p>3 to pass through that data to the EAC, that's correct.</p> <p>4 Q Okay.</p> <p>5 A Much to the counties' dismay.</p> <p>6 Q Why do you say that?</p> <p>7 A Well, it's just a lot of work to gather the data.</p> <p>8 It's a common role for us to constantly hound the counties,</p> <p>9 so...</p> <p>10 Q Does your office use the EAVS data? Once it's been</p> <p>11 delivered to the EAC and then they issue a report; right?</p> <p>12 A That's correct.</p> <p>13 Q And do you ever use the data from that report?</p> <p>14 A I can't think of specific instances where we used it</p> <p>15 for anything specific. You know, we do typically take a look at</p> <p>16 it. We don't necessarily review it in great detail. There are</p> <p>17 some drawbacks to the EAVS survey. One of the things is that</p> <p>18 they don't standardize terminology across states. You know,</p> <p>19 states refer to things in different ways, and that's always been</p> <p>20 a problem with getting accurate reporting in certain categories,</p> <p>21 and then again, because we don't validate that data or proof it</p> <p>22 -- you know, we just -- it just passes through to us -- I have</p> <p>23 -- we have seen things in the past where we think counties have</p> <p>24 misreported data. You know, it's all self-reported data that's</p> <p>25 not validated, and so it's -- you know, there's -- there's an</p> |

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LA UNION DEL PUEBLO ENTERO, et al.,
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX JJ

Confidential Transcript of the Testimony of
Kristi Hart

Date:

June 30, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

Kristi Hart

CONFIDENTIAL

June 30, 2022

Transcript of the Testimony of

Kristi Hart

Date:

June 30, 2022

Case:

LA UNION DEL PUEBLO ENTERO V. GREGORY W . ABBOTT

Kristi Hart

CONFIDENTIAL

June 30, 2022
Pages 2 to 5

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| <p>Kristi Hart CONFIDENTIAL June 30, 2022</p> <p>IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION</p> <p>LA UNION DEL PUEBLO ENTERO, et al., Plaintiffs, V. Case No. 5:21-cv-844-XR GREGORY W. ABBOTT, et al., Defendants. OCA-GREATER HOUSTON, et al., Plaintiffs, V. Case No. 1:21-cv-780-XR JOHN SCOTT, et al., Defendants. HOUSTON JUSTICE, et al., Plaintiffs, V. Case No. 5:21-cv-848-XR GREGORY WAYNE ABBOTT, et al., Defendants. Kim Tindall and Associates, LLC 16414 San Pedro, Suite 900 San Antonio, Texas 78232 Kristi Hart CONFIDENTIAL June 30, 2022 LULAC TEXAS, et al., Plaintiffs, V. Case No. 1:21-cv-0786-XR JOHN SCOTT, et al., Defendants. MI FAMILIA VOTA, et al., Plaintiffs, V. Case No. 5:21-cv-0920-XR GREG ABBOTT, et al., Defendants. UNITED STATES OF AMERICA, Plaintiffs, V. Case No. 5:21-cv-1085-XR THE STATE OF TEXAS, ET AL., Defendants. Kim Tindall and Associates, LLC 16414 San Pedro, Suite 900 San Antonio, Texas 78232 210-697-3400 210-697-3408</p> | <p>Page 2</p> <p>Kristi Hart CONFIDENTIAL June 30, 2022</p> <p>A P P E A R A N C E S</p> <p>ON BEHALF OF THE PLAINTIFFS: JENNIFER K. YUN, ESQ. RICHARD A. DELLHEIM, ESQ. MICHAEL E. STEWART, ESQ. U.S. Department of Justice, Civil Rights Division 950 Pennsylvania Avenue NW Washington, DC 20530 Telephone: (202) 305-5533 Jennifer.yun@usdoj.gov Richard.dellheim@usdoj.gov Michael.stewart3@usdoj.gov</p> <p>ON BEHALF OF THE PLAINTIFFS, MI FAMILIA VOTA MARK L. BIETER, ESQ. Stoel Rives LLP 101 S. Capitol Boulevard Suite 1900 Boise, Idaho 83702 Telephone: (208) 387-4217 Mark.bieter@stoel.com</p> <p>ON BEHALF OF THE DEFENDANTS: KATHLEEN HUNKER, ESQ. J. AARON BARNES, ESQ. Office of the Attorney General P.O. Box 12548 (MC-009) Austin, Texas 78711 Telephone: (512) 936-2275 Kathleen.hunker@oag.texas.gov Aaron.barnes@oag.texas.gov Kim Tindall and Associates, LLC 16414 San Pedro, Suite 900 San Antonio, Texas 78232 210-697-3400 210-697-3408</p> |
| <p>Kristi Hart CONFIDENTIAL June 30, 2022</p> <p>ORAL DEPOSITION OF KRISTI HART</p> <p>June 30, 2022</p> <p>Oral deposition of KRISTI HART, produced as a witness at</p> <p>the instance of the plaintiffs, and duly sworn, was taken</p> <p>in the above-styled and numbered cause on the 30th day of</p> <p>June, 2022, before Patrick Stephens, Certified</p> <p>Court Reporter, at the William P. Clements Building,</p> <p>10th Floor Conference Room, 300 W. 15th Street,</p> <p>Austin, Texas 78701.</p> <p>Kim Tindall and Associates, LLC 16414 San Pedro, Suite 900 San Antonio, Texas 78232</p> <p>210-697-3400 210-697-3408</p> | <p>Page 3</p> <p>A P P E A R A N C E S (Cont.)</p> <p>ALSO PRESENT:</p> <p>ADAM BITTER, ESQ., General Counsel</p> <p>ZAC RHINES, ESQ., Assistant General Counsel</p> <p>Office of the Secretary of State</p> <p>Capitol Building, Rm 1E.8</p> <p>P.O. Box 12697</p> <p>Austin, Texas 78711</p> <p>Telephone: (512) 475-2813</p> <p>abitter@sos.texas.gov</p> <p>zrhines@sos.texas.gov</p> <p>ALSO PRESENT VIA ZOOM:</p> <p>Georgina Yeomans, Legal Defense Fund</p> <p>Leigh Tognetti, ADA Hidalgo County</p> <p>Chuck Roberts, Republican Committees</p> <p>Victoria Giese, Butler Snow Law Firm</p> <p>Wendy Olson, Stoel Rives LLP</p> <p>Barbara Nicholas, Scarpello Law Firm</p> <p>Kim Tindall and Associates, LLC 16414 San Pedro, Suite 900 San Antonio, Texas 78232</p> |
| <p>Kim Tindall and Associates, LLC 16414 San Pedro, Suite 900 210-697-3400</p> | <p>Page 4</p> <p>San Antonio, Texas 78232 210-697-3408</p> |

Kristi Hart

CONFIDENTIAL

June 30, 2022
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|---|---|
| <p style="text-align: right;">Page 38</p> <p>1 A Again, if we receive a record and it's provided to</p> <p>2 the county, then the county is going to look at that record.</p> <p>3 They will then determine if that's already a person that's</p> <p>4 registered or if it's a new registration by comparing that</p> <p>5 information to their county voter-registration role.</p> <p>6 Q Okay. So it's the county who's making that</p> <p>7 determination.</p> <p>8 A Yes.</p> <p>9 Q And the TEAM system does not automatically tell you,</p> <p>10 like, Oh, hey, this might be a duplicate, or something like</p> <p>11 that to the county official who's entering that information.</p> <p>12 A The duplicate process doesn't come into play with</p> <p>13 that.</p> <p>14 Q Right. So on the flipside, when someone wants to</p> <p>15 update their existing voter registration, how does -- how would</p> <p>16 a user of the TEAM system determine whether the individual</p> <p>17 already has a TEAM record?</p> <p>18 A Again, when it comes in, it's matched and it's</p> <p>19 provided to the county. And so if there's one that comes in</p> <p>20 and it does appear that it is similar, then they would review</p> <p>21 those two records to make the determination if they are in fact</p> <p>22 similar, the same or different.</p> <p>23 Q And when you say they are matched, what do you mean</p> <p>24 by that sort of -- what do you mean by that?</p> <p>25 A Again, when the record comes in, we still have to</p> | <p style="text-align: right;">Page 40</p> <p>1 A Yeah. I don't know that I can give specific examples</p> <p>2 of that.</p> <p>3 Q And do you know when the duplicate batch process, the</p> <p>4 annual process, started happening with the TEAM system?</p> <p>5 A It was prior to my time. I do not know.</p> <p>6 Q And is the annual nature of it, is that required by a</p> <p>7 regulation or a state law provision? Do you know?</p> <p>8 A I do not recall. I don't know that the annual is</p> <p>9 part of a requirement, but we are required, yes, to conduct a</p> <p>10 comparative analysis of the system.</p> <p>11 Q Are there any circumstances that might create</p> <p>12 multiple TEAM records that pertain to one Texas voter?</p> <p>13 MS. HUNKER: Objection, form; vague; calls for</p> <p>14 speculation, outside of personal knowledge.</p> <p>15 BY THE WITNESS (resuming):</p> <p>16 A Can you repeat that again?</p> <p>17 Q Yeah. Are there any circumstances that you're aware</p> <p>18 of that might create multiple TEAM records that pertain to one</p> <p>19 single individual Texas voter?</p> <p>20 MS. HUNKER: Same objection.</p> <p>21 BY THE WITNESS (resuming):</p> <p>22 A I can't think of any particularly, if you're asking</p> <p>23 for a specific example of that. I mean, I think -- I think you</p> <p>24 do have to look at data entry as a possibility or different</p> <p>25 information actually provided. But, again, that's why we -- we</p> |
| <p style="text-align: right;">Page 39</p> <p>1 match it with what's there based on the criteria set for that</p> <p>2 particular process, and then if there's nothing there, it goes</p> <p>3 as a new registrant.</p> <p>4 Q So we talked about the duplicate process a little bit</p> <p>5 earlier, and you said that that was an annual process; right?</p> <p>6 A I'm sorry. I didn't hear.</p> <p>7 Q We talked about the duplicate batch process earlier,</p> <p>8 and am I remembering correctly that you said it was an annual</p> <p>9 process?</p> <p>10 A Yes.</p> <p>11 Q And so each year you run the process, and if there</p> <p>12 are any possible duplicates, you send those on to the counties</p> <p>13 to process.</p> <p>14 A Yes.</p> <p>15 Q And what are some scenarios -- how do duplicates get</p> <p>16 created?</p> <p>17 MS. HUNKER: Objection, form.</p> <p>18 BY THE WITNESS (resuming):</p> <p>19 A I'm sorry. I couldn't hear you.</p> <p>20 Q Oh. How do -- how -- why are there some duplicates</p> <p>21 in the TEAM system? Like, what are some ways in which those</p> <p>22 get created and then they get flagged and then processed?</p> <p>23 MS. HUNKER: Objection, form; ambiguous; calls</p> <p>24 for speculation.</p> <p>25 BY THE WITNESS (resuming):</p> | <p style="text-align: right;">Page 41</p> <p>1 do our checks on the system for that.</p> <p>2 Q When you say data entry, you mean when someone is</p> <p>3 manually entering something.</p> <p>4 A Yes.</p> <p>5 Q How common, if you know, are errors in the TEAM</p> <p>6 system that are due to inaccurate data entry?</p> <p>7 MS. HUNKER: Objection, form; outside of</p> <p>8 personal knowledge, calls for speculation.</p> <p>9 BY THE WITNESS (resuming):</p> <p>10 A I don't know. It's not information I could give you</p> <p>11 off the top of my head.</p> <p>12 Q Do you know if data entry errors occur with greater</p> <p>13 frequency in some places than others?</p> <p>14 MS. HUNKER: Objection, form; calls for</p> <p>15 speculation, outside of personal knowledge.</p> <p>16 BY THE WITNESS (resuming):</p> <p>17 A And I don't know what you mean by, In some places</p> <p>18 greater than others.</p> <p>19 Q Say, some counties than others.</p> <p>20 MS. HUNKER: Objection, form --</p> <p>21 BY THE WITNESS (resuming):</p> <p>22 A Oh. No.</p> <p>23 MS. HUNKER: -- calls for speculation --</p> <p>24 BY THE WITNESS (resuming):</p> <p>25 A No --</p> |

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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§
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX KK

Transcript of the Testimony of
Jacquelyn Callanen

Date:

April 20, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

Jacquelyn Callanen

April 20, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO,)
ET AL)
vs.) CASE NO. 5:21-CV-844-XR
GREGORY W. ABBOTT, ET AL)

OCA-GREATER HOUSTON, ET AL)
vs.) CASE NO. 1:23-CV-780-XR
JOHN SCOTT, ET AL)

HOUSTON JUSTICE, ET AL)
vs.) CASE NO. 5:21-CV-848-XR
GREGORY WAYNE ABBOTT, ET AL)

LULAC TEXAS, ET AL)
vs.) CASE NO. 1:21-CV-0786-XR
JOHN SCOTT, ET AL)

MIFAMILIA VOTA, ET AL)
vs.) CASE NO. 5:21-CV-0920-XR
GREG ABBOTT, ET AL)

UNITED STATES OF AMERICA)
vs.) CASE NO. 5:21-CV-1085-XR
THE STATE OF TEXAS, ET AL)

ORAL VIDEOTAPED DEPOSITION

JACQUELYN CALLANEN

APRIL 20, 2022

Jacquelyn Callanen

April 20, 2022

Pages 2 to 5

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| <p style="text-align: right;">Page 2</p> <p>1 ORAL VIDEOTAPED DEPOSITION OF JACQUELYN CALLANEN, 2 produced as a witness at the instance of the Plaintiffs 3 and duly sworn, was taken in the above-styled and 4 numbered cause on the 20TH day of April, 2022, from 5 9:27 a.m. to 7:07 p.m., before Sarah A. Prugh, Certified 6 Shorthand Reporter in and for the State of Texas, 7 reported by machine shorthand at the Offices of The 8 Mexican American Legal Defense and Educational Fund, 110 9 Broadway Street, Suite 300, San Antonio, Texas, pursuant 10 to the Federal Rules of Civil Procedure and the 11 provisions stated on the record or attached hereto. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">Page 4</p> <p>1 FOR PLAINTIFFS OCA-GREATER HOUSTON, LEAGUE OF WOMEN 2 VOTERS OF TEXAS, REVUP-TEXAS, TEXAS ORGANIZING PROJECT 3 AND WORKERS DEFENSE ACTION FUND: 4 Mr. Thomas Buser-Clancy (Via Zoom) 5 ACLU Foundation of Texas, Inc. 6 5225 Katy Freeway, Suite 350 7 Houston, Texas 77007 8 Telephone: 713-942-8146 9 Ms. Lia Sifuentes Davis (Via Zoom) 10 Disability Rights Texas 11 2222 West Braker Lane 12 Austin, Texas 78758-1024 13 Telephone: 512-454-4816 14 E-mail: ldavis@drtx.org 15 16 Ms. Susana Lorenzo-Giguere (Via Zoom) 17 Asian American legal Defense and Education Fund 18 99 Hudson Street, 12th Floor 19 New York, NY 10013 20 Telephone: 212-966-5932 21 E-mail: slorenzo-giguere@aaldef.org 22 FOR PLAINTIFF LULAC TEXAS: 23 Mr. Graham W. White 24 Elias Law Group, LLP 25 10 G Street NE, Suite 600 Washington, DC 20002 Telephone: 202-968-4490 E-mail: gwhite@elias.law FOR PLAINTIFF MI FAMILIA VOTA: Ms. Wendy Olson (Via Zoom) Stoel Rivas, LLP 101 S. Capitol Boulevard, Suite 1900 Boise, Idaho 83702 Telephone: 208-387-4291 E-mail: wendy.olson@stoel.com FOR DEFENDANT HIDALGO COUNTY ELECTIONS ADMINISTRATOR YVONNE RAMON: Ms. Leigh Tognetti (Via Zoom) Hidalgo County District Attorney's Office E-mail: josephine.ramirez@da.co.hidalgo.tx.us</p> |
| <p style="text-align: right;">Page 3</p> <p>1 APPEARANCES 2 3 FOR PLAINTIFFS HOUSTON AREA URBAN LEAGUE; DELTA SIGMA 4 THETA SORORITY, INC.; THE ARC OF TEXAS; AND JEFFREY 5 LAMAR CLEMMONS: 6 Ms. Sarah Cummings Stewart (Via Zoom) 7 Reed Smith, LLP 8 2850 N. Harwood Street, Suite 1500 9 Dallas, Texas 75201 10 Telephone: 469-680-4200 11 E-mail: sarah.stewart@reedsmith.com 12 13 Ms. Ciara A. Sisco 14 Email: csisco@naacpldf.org 15 Ms. Liliana Zaragoza (Via Zoom) 16 Email: lzaragoza@naacpldf.org 17 NAACP Legal Defense and Educational Fund, Inc. 18 40 Rector Street, 5th Floor 19 New York, New York 10006 20 Telephone: 212-965-2200 21 FOR PLAINTIFFS LA UNION DEL PUEBLO ENTERO, SOUTHWEST 22 VOTER REGISTRATION EDUCATION PROJECT, MEXICAN AMERICAN 23 BAR ASSOCIATION OF TEXAS, TEXAS HISPANICS ORGANIZED FOR 24 POLITICAL EDUCATION, JOLT ACTION, WILLIAM C. VELASQUEZ 25 INSTITUTE, FIEL HOUSTON, INC.: Ms. Nina Perales E-mail: nperales@maldef.org Ms. Julia R. Longoria (Via Zoom) E-mail: jlongoria@maldef.org Mexican American Legal Defense and Educational Fund 110 Broadway, Suite 300 San Antonio, Texas 78205 Telephone: 210-224-5476 Ms. Jasmine Johnson (Via Zoom) Fried, Frank, Harris, Shriver & Jacobson, LLP One New York Plaza New York, New York 10004 Telephone: 212-859-8000 E-mail: jasmine.johnson@friedfrank.com</p> | <p style="text-align: right;">Page 5</p> <p>1 FOR DEFENDANT HIDALGO COUNTY CRIMINAL DISTRICT ATTORNEY 2 RICARDO RODRIGUEZ, JR.: 3 Ms. Jacqueline Villarreal (Via Zoom) 4 Assistant District Attorney 5 FOR DALLAS COUNTY: 6 Ms. Barbara Nicholas (Via Zoom) 7 Dallas District Attorney's Office 8 9 FOR DEFENDANTS GUERRERO & GARZA: 10 Mr. Anthony "Tony" Nelson (Via Zoom) 11 Assistant Travis County Attorney 12 E-mail: tony.nelson@traviscountytx.gov 13 14 FOR UNITED STATES OF AMERICA: 15 Mr. Jaywin Singh Malhi (Via Zoom) 16 Trial Attorney 17 Civil Rights Division, Voting Section 18 US Department of Justice 19 Telephone: 202-598-0146 20 E-mail: jaywin.malhi@usdoj.gov 21 FOR DEFENDANT BEXAR COUNTY ELECTIONS ADMINISTRATOR 22 JACQUELYN CALLANEN: 23 Ms. Lisa V. Cubriel 24 Assistant District Attorney -- Civil Division 25 101 W. Nueva, 7th Floor San Antonio, Texas 78205-3030 Telephone: 210-335-2142 E-mail: Lisa.Cubriel@bexar.org FOR DEFENDANTS: Ms. Kathleen T. Hunker Special Counsel kathleen.hunker@oag.texas.gov Office of the Attorney General P. O. Box 12548 (MC-009) Austin, Texas 78711-2548 Telephone: 512-463-2100</p> |

Jacquelyn Callanen

April 20, 2022
Pages 214 to 217

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|---|---|
| <p style="text-align: right;">Page 214</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. Those were mail ballots?</p> <p>3 A. Yes, ma'am, that were returned to us and that</p> <p>4 the ballot board rejected, yes, ma'am.</p> <p>5 Q. And that number is 3,940. And then you have</p> <p>6 837 that were cured.</p> <p>7 A. That came in to cure out of that 39. So that</p> <p>8 is 20 percent -- 20 some percent.</p> <p>9 Q. So I am getting 3,103.</p> <p>10 A. That did not --</p> <p>11 Q. That did not cure.</p> <p>12 A. Okay. 3,103?</p> <p>13 Q. Yeah, 3,103. So that is 1,117 plus 2,823 minus</p> <p>14 837 gets us 3,103.</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. So how would we describe that 3,103? 3,103 are</p> <p>17 the number of voters in Bexar County who sent you a mail</p> <p>18 ballot. You could not match the ID number and they</p> <p>19 didn't cure in time so their vote was not counted.</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Now, do you have a sense of how many</p> <p>22 people sent you an application for a mail ballot and you</p> <p>23 couldn't match their number and you never got a cured</p> <p>24 application for mail ballot from them?</p> <p>25 A. No, that we didn't track. Like I said, we</p> | <p style="text-align: right;">Page 216</p> <p>1 particular?</p> <p>2 A. I don't.</p> <p>3 Q. Is that because you weren't tracking those</p> <p>4 individual voters?</p> <p>5 A. Correct. Again, because the system we have had</p> <p>6 no coding for it in there. Previously, it had never</p> <p>7 been an issue. It was handled manually. If something</p> <p>8 came in and we had to reject it, we sent something out</p> <p>9 and we literally kept it in a box. I mean we kept it</p> <p>10 filed. We knew where it was. But the computer system,</p> <p>11 the database didn't even have the codes in there.</p> <p>12 Q. Do you recall your office receiving any phone</p> <p>13 calls from voters who said I received a second</p> <p>14 application for ballot by mail from you and I filled</p> <p>15 that one out too and I still got rejected?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know how many voters were twice</p> <p>18 rejected?</p> <p>19 A. No, no, that would have been anecdotally. But</p> <p>20 yes, we would hear it.</p> <p>21 Q. And I will represent to you that El Paso County</p> <p>22 got some pretty angry phone calls from voters.</p> <p>23 A. So did we. So did we. And again, as I spoke</p> <p>24 before, we had to have a meeting with the staff to allow</p> <p>25 them to say they don't deserve to be spoken to like</p> |
| <p style="text-align: right;">Page 215</p> <p>1 didn't have that system in place.</p> <p>2 Q. Do you know how many times you mailed out to a</p> <p>3 voter a new application for ballot by mail because you</p> <p>4 weren't able to verify the first time?</p> <p>5 A. Again, we didn't track that. We didn't know it</p> <p>6 would be --</p> <p>7 Q. So would you agree with me there is some number</p> <p>8 of people who sent an application for ballot by mail and</p> <p>9 you couldn't match their number and they were unable to</p> <p>10 cure and so they never received a mail ballot?</p> <p>11 MS. HUNKER: Objection, form.</p> <p>12 THE WITNESS: Correct, although we did</p> <p>13 send rejects to them and new applications up to the</p> <p>14 point where the gate came down and it was closed. So</p> <p>15 again, I just don't know what that push/pull was.</p> <p>16 Q. (By Ms. Perales) It is also possible, isn't it,</p> <p>17 and this would be a terrible situation. But if the</p> <p>18 voter sent you the first application for ballot by mail</p> <p>19 and put the driver's license and you couldn't match the</p> <p>20 driver's license, so you sent them a new application for</p> <p>21 ballot by mail and they put the social down, and then</p> <p>22 you couldn't match the social either, that could happen;</p> <p>23 couldn't it?</p> <p>24 A. Oh, sure.</p> <p>25 Q. And do you know if it happened for anybody in</p> | <p style="text-align: right;">Page 217</p> <p>1 that. So and again, in all of the years I have been</p> <p>2 here, I have never had to have a meeting like that, to</p> <p>3 even say something like that because we are a customer</p> <p>4 service driven organization and that is part of who we</p> <p>5 are. And we had to do that for the first time and that</p> <p>6 was sad.</p> <p>7 Q. Did you have any voters call with confusion</p> <p>8 about the verifying of the numbers on the mail ballot</p> <p>9 applications or mail ballots who were Spanish speaking</p> <p>10 voters?</p> <p>11 A. Oh, sure.</p> <p>12 Q. Did you have a Spanish speaking staff person</p> <p>13 who would talk to them on the phone?</p> <p>14 A. Yes, ma'am. Yes, ma'am.</p> <p>15 Q. You mentioned that at some point, you started</p> <p>16 sending voter registration forms to voters who had --</p> <p>17 who were obviously already registered --</p> <p>18 A. Correct.</p> <p>19 Q. -- but for whom you couldn't get some kind of</p> <p>20 number on them?</p> <p>21 A. Correct.</p> <p>22 Q. Did you receive any phone calls from voters who</p> <p>23 were confused about why you were sending them a voter</p> <p>24 registration form?</p> <p>25 A. Yes, ma'am.</p> |

Jacquelyn Callanen

April 20, 2022
Pages 218 to 221

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|---|--|
| <p style="text-align: right;">Page 218</p> <p>1 Q. And they were already --</p> <p>2 A. They were already registered.</p> <p>3 Q. Do you recall whether the voter registration</p> <p>4 form that you sent out was in both English and Spanish</p> <p>5 or just English?</p> <p>6 A. I bet it was just English. We had Spanish. If</p> <p>7 they request, we have Spanish ones. But now that you</p> <p>8 are saying that, I bet the staff was just picking and</p> <p>9 stuffing and picking and stuffing as they -- that is a</p> <p>10 great point.</p> <p>11 Q. So it is likely that when you were sending out</p> <p>12 these new voter registration forms to voters, you were</p> <p>13 sending the English form?</p> <p>14 A. Yes.</p> <p>15 Q. Did you get a sense from all of this of what</p> <p>16 characteristics of the voter was most likely to cure</p> <p>17 when you notified them that you couldn't match their ID</p> <p>18 number?</p> <p>19 MS. HUNKER: Objection, form.</p> <p>20 Q. (By Ms. Perales) Anything about education level</p> <p>21 or anything that you were picking up from your</p> <p>22 conversations with voters on the phone that would help</p> <p>23 you understand kind of the differences between the group</p> <p>24 that did manage to cure and the group that just never</p> <p>25 got their ballot counted?</p> | <p style="text-align: right;">Page 220</p> <p>1 A. No.</p> <p>2 Q. Because once an ID number matches, that is</p> <p>3 presumptively then considered a match on the signature</p> <p>4 side?</p> <p>5 A. That is a word I didn't understand, the one you</p> <p>6 all use, legalese --</p> <p>7 Q. Presumption?</p> <p>8 A. Yeah, that.</p> <p>9 Q. You had mentioned before that when somebody --</p> <p>10 pre-SB-1, that you were looking to match the signature</p> <p>11 on the mail ballot to the signature on the application</p> <p>12 for ballot by mail.</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. But what were you matching the signature on the</p> <p>15 application for ballot by mail to when you first</p> <p>16 received that?</p> <p>17 A. Nothing.</p> <p>18 Q. You wouldn't match that against anything?</p> <p>19 A. No, ma'am.</p> <p>20 Q. When I am quiet, I am skipping questions.</p> <p>21 A. That is a good thing.</p> <p>22 MS. CUBRIEL: Can we go off the record</p> <p>23 real quick?</p> <p>24 MS. PERALES: Can we go off the record?</p> <p>25 VIDEOGRAPHER: The time is 3:49 p.m. We</p> |
| <p style="text-align: right;">Page 219</p> <p>1 MS. HUNKER: Objection, form.</p> <p>2 THE WITNESS: No, I didn't have a sense of</p> <p>3 that.</p> <p>4 Q. (By Ms. Perales) We talked to one lady who had</p> <p>5 a PhD. And she was all fired up and she cured.</p> <p>6 A. Was she related to Tommy Calvert because he is</p> <p>7 the one that tells me all of the time --</p> <p>8 Q. No, it was a different county.</p> <p>9 A. I have got to stop. Sorry. Bite my tongue. I</p> <p>10 am going to get myself in so much trouble, I can't stand</p> <p>11 it. Lisa, you are supposed to keep me --</p> <p>12 MS. CUBRIEL: She didn't say that.</p> <p>13 MS. PERALES: I think you are supposed to</p> <p>14 kick her under the table when she mentions a county</p> <p>15 commissioner.</p> <p>16 THE WITNESS: That is your job to keep me</p> <p>17 out of trouble.</p> <p>18 MS. CUBRIEL: Are you doing okay? Do you</p> <p>19 need a break?</p> <p>20 MS. PERALES: Whenever you need a break,</p> <p>21 you call break.</p> <p>22 Q. (By Ms. Perales) So here is a question I have.</p> <p>23 There is still a signature verification requirement for</p> <p>24 application for a ballot by mail and mail ballot;</p> <p>25 correct?</p> | <p style="text-align: right;">Page 221</p> <p>1 are off the record.</p> <p>2 (Recess taken)</p> <p>3 VIDEOGRAPHER: The time is 3:57 p.m. We</p> <p>4 are back on the record.</p> <p>5 Q. (By Ms. Perales) Ms. Callanen, can you describe</p> <p>6 a specific instance in which someone contacted your</p> <p>7 office asking for an application for ballot by mail on</p> <p>8 behalf of another individual and you could not send that</p> <p>9 application for ballot by mail?</p> <p>10 A. Many times.</p> <p>11 Q. Okay. And give me an example of the</p> <p>12 relationship between the two people.</p> <p>13 A. Well, again, as I mentioned the last time, I</p> <p>14 mean the one that really hurt was when the mother</p> <p>15 reached out and she asked for the two applications. And</p> <p>16 I had her on the call and I was explaining to her that</p> <p>17 we could only send the one to her and she wanted one for</p> <p>18 her son.</p> <p>19 And you know, first, we go through well,</p> <p>20 but I always call and you always send me two. And then</p> <p>21 so we had to stop and say yes, but SB-1, now we can</p> <p>22 only -- so I said just take a minute and put your son on</p> <p>23 the phone. If I can hear his voice, I will be glad to</p> <p>24 send you one for him too. And that is when she said</p> <p>25 that he was paralyzed and that he did not speak. And</p> |

Jacquelyn Callanen

April 20, 2022
Pages 278 to 281

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|--|--|
| <p style="text-align: right;">Page 278</p> <p>1 A. Again, every one of these voters is important. 2 Every one of them is a vote. And when we disenfranchise 3 or we lose one, that is not right. That is not what we 4 are in business for. 5 Q. Thank you. And have you -- actually, scratch 6 that because you have answered it already. Do you have 7 any reason to believe that this significantly larger 8 number of rejected of people who had their ballots 9 rejected are not otherwise eligible voters? 10 MS. HUNKER: Objection, form. 11 THE WITNESS: I'm sorry. I don't 12 understand. 13 Q. (By Ms. Sisco) I can rephrase. Do you have any 14 reason to believe that the people -- that the majority 15 of the people whose votes weren't counted because they 16 were rejected, do you think that they are -- do you 17 think there is voter fraud going on there or do you 18 think they are eligible voters who misunderstood or 19 messed up? 20 MS. HUNKER: Objection, form. 21 THE WITNESS: I think they were eligible 22 voters. 23 Q. (By Ms. Sisco) Do you think the SB-1, this ID 24 number requirement confused voters? 25 A. Yes.</p> | <p style="text-align: right;">Page 280</p> <p>1 A. Again, there was a strong hesitancy of sending 2 information like that over the internet in an email. 3 And I don't blame them. 4 Q. Understood. And would they provide an updated 5 number by phone? 6 A. No. 7 Q. Okay. And we talked about they could 8 theoretically do it online but it didn't work and only 9 39 voters were able to do that? 10 A. Correct. 11 Q. Okay. Can a voter -- could a voter who came in 12 person to cure their ballot, could they do that curbside 13 or would they have to physically go into your office and 14 talk to an elections worker? 15 A. We did provide curbside for that. 16 Q. Okay. Great. And we have talked a lot about 17 the steps that your office, the various steps that your 18 office has taken to help voters kind of understand and 19 cure their ballot issues. Do you remember that? 20 A. Yes. 21 Q. And one of the things you mentioned is that 22 your office started advising people to just put both 23 numbers on everything? 24 A. Correct. 25 Q. When did you start advising that?</p> |
| <p style="text-align: right;">Page 279</p> <p>1 Q. Did the secretary of state provide adequate 2 guidance on this requirement to voters? 3 A. In my opinion which is only an opinion, the 4 answer would be no. 5 Q. And has -- do you think the secretary of state 6 has provided additional -- since the March 2022 primary, 7 do you think that now the secretary of state has 8 provided adequate guidance to voters? 9 A. No. 10 Q. Okay. Thank you. So we talked a lot about how 11 people can come in person to cure their votes? 12 A. Yes. 13 Q. Okay. And I believe you said that they 14 could -- you, if their application is rejected, you were 15 just sending them a new application? 16 A. Correct. 17 Q. So could they have returned that by mail? 18 A. Absolutely. 19 Q. Okay. Do you know how many people did that? 20 A. No. As I said, we weren't tracking that at the 21 time. 22 Q. And could they provide like their number? 23 Could they cure it by email? 24 A. They could but they didn't. 25 Q. Okay.</p> | <p style="text-align: right;">Page 281</p> <p>1 A. When it became apparent that we had a problem. 2 Q. And when was that? 3 A. You know, probably like the third week of 4 January. 5 Q. Okay. And why did you start advising that? 6 A. Again, because we were noticing that we were 7 getting the wrong number. I don't want to say it is the 8 wrong number. The other number. 9 Q. Got it. Okay. And you also mentioned that 10 your office sent voter registration cards with new 11 applications when the original was rejected; correct? 12 A. Correct. 13 Q. Did that require the use of resources like 14 staff or funding to do that that wasn't necessary in 15 prior elections? 16 A. Correct. 17 Q. Can you describe a little bit what additional 18 resources were required? 19 A. I mean, again, you have the staff time to do 20 it. You have the cost of the new voter registration 21 card. You have the cost of the mailer. You have your 22 envelopes that are nine cents a piece. You have your 23 application, the new application. You have the new 24 voter registration card and you are going to pay the 25 postage out. So each one was a necessary financial</p> |

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX LL



HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTIETH DAY — MONDAY, APRIL 23, 2007

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 590).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — King, S.; Moreno.

The invocation was offered by Steve Doles, director, Pray Lubbock, as follows:

Our Heavenly Father, your servant, Moses, not only brought law and order to his people, but provided the foundation upon which laws are established today. May each member of the house breathe in a fresh sense of divinely ordained duty and their stamina renewed as they consider legislation regarding the affairs of our state. May their noble work bring forth laws which will protect our freedoms, enhance life for individuals, and insure rule and order in our society.

We thank you that you have created the men and women in this room with passion about their opinions on appropriate governing policy. I pray that you will endow these representatives, whether on the debate floor or in the committee room, with self-control and honorable statesmanship equal to their passion allowing true corporate wisdom to prevail in this 80th Legislature.

Absent — Cook, R.; King, S.; Woolley.

STATEMENT OF VOTE

When Record No. 617 was taken, my vote failed to register. I would have voted yes.

Woolley

HB 218 - REMARKS

REPRESENTATIVE ANCHIA: Members, I'm going to be brief, this has been a long day. The debate has gone on for, oh boy, about six hours and this is what we learned. We've learned that the authors of this bill have provided not one shred of evidence of voter impersonation, which is the type of voter fraud this bill gets at. We have learned that upwards of two million Texans may be disenfranchised by this bill. We have learned that the sense of this body is not to prosecute the offenders and not to set up and devote resources to engage a prosecuting voter impersonation.

So, let me tell you what I know it's not about. This is clearly not about voter fraud, it's not about voter impersonation, it's not about expanding the franchise, it's not about protecting those that are least vulnerable in our society, and it's not about making sure that elections are more secure, and I'll tell you why. I've been saving this wonderful nugget for you guys until the end. If you look at the list of documents that you can offer up, it includes employee identification. No matter how much training you do with poll workers, no matter how much training you do of election judges and election officials, it will be impossible for them to discern what is a valid employment identification and what is an invalid employment identification. Mr. Talton probably has an identification for his law firm. It would be impossible for me to tell whether it was valid or invalid or whether Joe Deshotel's face was on it or whether it was correct or not. In fact, you can go down to Kinko's and have a bogus little ID made and say that you're an employee of whatever organization you want to be for about five dollars. In fact, this bill, rather than increasing the integrity of elections, makes sure that there's a huge loophole that you can drive a train through to increase voter fraud that was what was crossing the mind of a particular person.

We know that there's no evidence of it, but if this body wants to create an opportunity for voter fraud then vote for **HB 218**. In fact, that Section 3 part (a) of **HB 218** creates a wonderful opportunity for people at a low cost to be able to impersonate someone else by saying that this is a valid employee ID and no poll worker, no election worker, no election judge will be able to discern a valid from an invalid ID. Furthermore, there's another wonderful loophole in this bill that creates a glaring weakness. It essentially allows vote by mail to continue without photo identification. Vote by mail, that we know, is the greatest source of voter fraud in this state. In fact, all of the prosecutions by the attorney general—I shouldn't say all, but a great majority of the prosecutions by the attorney general occur with respect to vote by mail.

So ladies and gentlemen, you have a pig on your hands. It's an ugly bill. It creates more of an opportunity for voter fraud than current law, and I will tell you that if you vote for this without any commensurate enforcement like what was

Monday, April 23, 2007

HOUSE JOURNAL — 60th Day

2225

offered up in Representative Strama's bill, you are voting for a pig with no lipstick, and it's going to be nasty. So I urge you, members of this body, to please vote against the loopholes that this bill creates and vote against the opportunities of voter fraud that this creates and vote against **HB 218**.

REPRESENTATIVE BURNAM: I particularly want to thank Rafael Anchia for the leadership role he's taken, both on the Elections Committee and today, and I'm only going to add a few words from my hometown daily paper, the *Star-Telegram* today. The opening paragraph, "An insidious scheme to turn back the clock on voting rights in Texas tragically has once again made it's way to the state house floor. The architects of this idea pitched as a noble effort to prevent voter fraud cannot be allowed to succeed with what is surely one of the greatest assaults on the right to vote in this state since the passage of The Federal Voting Rights Act in 1965." Racism is racism, xenophobia is xenophobia. It's too bad that we're going to see it enacted on the house floor again.

REMARKS ORDERED PRINTED

Representative Thompson moved to print all closing remarks on **HB 218**.

The motion prevailed.

REPRESENTATIVE VEASEY: Mr. Speaker, members, thank you very much. I'll be very brief. I want to start off by thanking some of the folks that have helped bring attention to this voter ID, or what I call a voter suppression bill. First of all, I'd like to thank the Baptist General Convention of Texas. They put out a pamphlet, a flier today asking members to please oppose this bill. I think that's significant because the Civil Rights Movement back when we were going through a lot of these issues that we're facing today—and don't be mistaken about it—this is a Civil Rights issue that we are debating today. But back during the '60s the black ministers and everyone else that marched for freedom, that marched for voting rights, rarely did any of the white pastors from the South join in, and the fact that the Baptist General Convention joined in shows that we are making some progress in this country on racial harmony.

Unfortunately, this bill sets us back. We have heard absolutely no evidence of any voter impersonation today, absolutely none. I think that Representative Strama and Representative Anchia pointed that out very eloquently. All of the amendments and everything that Ms. Brown has offered you today is asking you to vote for this bill based on generalizations, and based on stereotypes, and based on things that are untrue. There has been absolutely not one shred of evidence, and we're voting for this bill today. It makes absolutely no sense, and especially in light of what's going on with the attorney general in the State of Texas. They were trying to force U.S. attorneys to say that there was voting fraud going on in their respective districts in their respective states so they could produce convictions that would prove voter impersonation. The panel, the U.S. panel who looked into this, found none. They had to help doctor some of the findings to make their findings more compelling. And I think that it's time that—instead of 15 or 20 years from now—because, you know, when we look down the road this is going to be embarrassing that we even voted for this. But right now people are

IN THE UNITED STATES DISTRICT COURT
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX MM

Vice Chair, Natural Resources
and Economic Development
Texas Judicial Council
Chair, Eagle Ford Shale
Legislative Caucus



Judith Zaffirini
State Senator, District 21
President Pro Tempore, 1997

Committees
Administration
Business and Commerce
State Affairs

December 3, 2018

The Honorable
Bryan Hughes, Chair
Senate Select Committee
on Election Security
P.O. Box 12068
Austin, TX 78711



Dear Chair Hughes:

Thank you for your leadership as Chair of the Senate Select Committee on Election Security. It is my privilege to serve with you, and I appreciate the opportunity to share my perspective regarding the Committee's Interim Report to the 86th Legislature. The report includes numerous good recommendations, and I am delighted to sign it. This letter, however, is to record my concerns regarding the need to (1.) provide concrete recommendations to address mail-in ballot fraud and (2.) reflect that Texas lags behind much of the nation in modernizing and simplifying the registration process, which is critical in offering adequate opportunities for all Texans to register to vote.

During the last several sessions many legislators have focused on voter ID laws intended to prevent in-person voter fraud, but not on the increasingly serious problem of mail-in ballot fraud. Our Committee heard troubling testimony regarding the state of election security related to the latter. The report's recommendation that the Legislature needs to find a solution to the "vexing issue" of mail-in ballot fraud at nursing homes and assisted living facilities is a good start, but we must take all possible steps to address voting irregularities caused by fraudulent mail-in ballots.

The report also states that current federal and state laws governing Texas' voter registration system "create a broad base of opportunity for registration for all Texans" and describes how eligible persons may register to vote. It does not mention, however, that we have not adopted secure voter registration reforms that

Letter to Chair Bryan Hughes
December 3, 2018
Page 2 of 2

many other states have. Texas, for example, is one of only thirteen states that does not offer online registration. The Legislature should consider this and other secure methods to facilitate voter registration.

Thank you for your dedication to the many important issues we examined during the 85th Interim. I look forward to continuing to work with you and other members of the committee during our next legislative session.

May God bless you.

Very truly yours,

A handwritten signature in black ink, reading "Judith Zaffirini". The signature is written in a cursive, flowing style.

Judith Zaffirini

Z/ah